

ACOP TABLE OF CONTENTS

INTRODUCTION	7
A. LOCAL OBJECTIVES	7
B. PURPOSE OF THE POLICY	8
1.0 FAIR HOUSING	9
2.0 REASONABLE ACCOMMODATION	11
2.1 COMMUNICATION	12
2.2 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION	12
3.0 SERVICES FOR LIMITED-ENGLISH PROFICIENCY APPLICANTS AND RESIDENTS	15
4.0 FAMILY OUTREACH	17
5.0 RIGHT TO PRIVACY	19
6.0 REQUIRED POSTINGS	21
7.0 TAKING APPLICATIONS	23
8.0 ELIGIBILITY FOR ADMISSION	25
8.1 INTRODUCTION	25
8.2 ELIGIBILITY CRITERIA	25
8.3 SUITABILITY	30
8.4 GROUNDS FOR DENIAL	33
8.5 INFORMAL REVIEW	36
9.0 MANAGING THE WAITING LIST	39
9.1 OPENING AND CLOSING THE WAITING LIST	39
9.2 ORGANIZATION OF THE WAITING LIST	39
9.3 FAMILIES NEARING THE TOP OF THE WAITING LIST	40
9.4 PURGING THE WAITING LIST	40
9.5 REMOVAL OF APPLICANTS FROM THE WAITING LIST	40
9.6 MISSED APPOINTMENTS	41
9.7 NOTIFICATION OF NEGATIVE ACTIONS	41
10.0 TENANT SELECTION AND ASSIGNMENT PLAN	43
10.1 CHANGES PRIOR TO UNIT OFFER	43
10.2 PREFERENCES	44

10.2.1	HOUSING FOR FEDERALLY DECLARED DISASTER VICTIMS	46
10.3	ASSIGNMENT OF BEDROOM SIZES	47
10.4	SELECTION FROM THE WAITING LIST	48
10.5	DECONCENTRATION POLICY	49
10.6	DECONCENTRATION INCENTIVES	49
10.7	OFFER OF A UNIT	50
10.8	REJECTION OF UNIT	50
10.9	ACCEPTANCE OF UNIT & EXECUTION OF LEASE	51
11.0	INCOME, EXCLUSIONS, AND DEDUCTIONS FROM INCOME	53
11.1	INCOME	53
11.2	ANNUAL INCOME	57
11.3	DEDUCTIONS FROM ANNUAL INCOME	63
11.4	RECEIPT OF A LETTER OR NOTICE FROM HUD CONCERNING INCOME	64
11.5	COOPERATING WITH WELFARE AGENCIES	65
11.6	COOPERATING WITH LAW ENFORCEMENT AGENCIES	65
12.0	VERIFICATION	67
12.1	RELEASE OF INFORMATION	67
12.2	ACCEPTABLE METHODS OF VERIFICATION	67
12.3	TYPES OF VERIFICATION	72
12.4	VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS	76
12.5	VERIFICATION OF SOCIAL SECURITY NUMBERS	77
12.6	TIMING OF VERIFICATION	78
12.7	FREQUENCY OF OBTAINING VERIFICATION	78
12.8	SPECIAL VERIFICATION FOR ADULT STUDENTS	79
12.9	DISCREPANCIES IN VERIFIED INFORMATION	82
13.0	DETERMINATION OF TOTAL TENANT PAYMENT AND TENANT RENT	85
13.1	DEFINITION OF TEMPORARILY/PERMINENTLY ABSENT	85
13.2	FAMILY CHOICE (PUBLIC HOUSING ONLY)	88
13.3	AVERAGING INCOME	89
13.4	MINIMUM INCOME	89
13.5	INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME	89
13.6	THE INCOME METHOD	90
13.7	MINIMUM RENT	90
13.8	THE FLAT RENT	91
13.9	RETROACTIAVE CALCULATION METHODOLOGY	92
13.10	CEILING RENT	93
13.11	RENT FOR FAMILIES UNDER THE NONCITIZEN RULE	93

13.12	UTILITY ALLOWANCE	94
13.13	PAYING RENT	95
14.0	COMMUNITY SERVICE (PUBLIC HOUSING ONLY)	97
14.1	GENERAL	97
14.2	EXEMPTIONS	97
14.3	NOTIFICATION OF THE REQUIREMENT	97
14.4	VOLUNTEER OPPORTUNITIES	98
14.5	THE PROCESS	98
14.6	NOTIFICATION OF NON-COMPLIANCE WITH COMMUNITY SERVICE REQUIREMENT	99
14.7	OPPORTUNITY FOR CURE	99
14.8	PROHIBITION AGAINST REPLACEMENT OF AGENCY EMPLOYEES	100
15.0	LEASING	101
15.1	LEASING ORIENTATION	101
15.2	EXECUTION OF LEASE	101
15.3	ADDITIONS TO THE LEASE	102
15.4	LEASING UNITS WITH ACCESSIBLE OR ADAPTABLE FEATURES	104
15.5	UTILITY SERVICE	104
15.6	SECURITY DEPOSITS	105
15.7	RENT PAYMENTS / COLLECTION	106
15.8	FEES AND NONPAYMENT PENALTIES	106
15.9	SCHEDULES OF SPECIAL CHARGES	107
15.10	MODIFICATIONS TO THE LEASE	107
15.11	CANCELLATION OF THE LEASE	107
15.12	INSPECTIONS OF PUBLIC HOUSING UNITS	108
16.0	RECERTIFICATIONS	111
16.1	GENERAL	111
16.2	FLAT RENTS (PUBLIC HOUSING ONLY)	112
16.3	THE INCOME METHOD	113
16.4	EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL REEXAMINATIONS	114
16.5	INTERIM REEXAMINATIONS	114
16.6	SPECIAL REEXAMINATIONS	115
16.7	EFFECTIVE DATE OF RENT CHANGES DUE TO INTERIM OR SPECIAL REEXAMINATIONS	115
16.8	HOUSING AUTHORITY MISTAKES IN CALCULATING RENT	116
17.0	UNIT TRANSFERS	117

17.1	OBJECTIVES OF THE TRANSFER POLICY	117
17.2	CATEGORIES OF TRANSFERS	117
17.3	DOCUMENTATION	118
17.4	PROCESSING TRANSFERS	118
17.5	COST OF THE FAMILY'S MOVE	118
17.6	TENANTS IN GOOD STANDING	119
17.7	TRANSFER REQUESTS	119
17.8	RIGHT OF THE OSHKOSH / WINNEBAGO COUNTY HOUSING AUTHORITY IN TRANSFER POLICY	120
18.0	INSPECTIONS	121
18.1	MOVE-IN INSPECTIONS	121
18.2	ANNUAL INSPECTIONS	121
18.3	PREVENTATIVE MAINTENANCE INSPECTIONS	121
18.4	SPECIAL INSPECTIONS	121
18.5	HOUSEKEEPING INSPECTIONS	121
18.6	NOTICE OF INSPECTION	121
18.7	EMERGENCY INSPECTIONS	122
18.8	PRE-MOVE-OUT INSPECTIONS	122
18.9	MOVE-OUT INSPECTIONS	122
18.10	PROPERTY ABANDONEMENT	122
19.0	PET POLICY	123
19.1	EXCLUSIONS	123
19.2	PETS IN PUBLIC HOUSING	123
19.3	APPROVAL	124
19.4	TYPES AND NUMBER OF PETS	124
19.5	INOCULATIONS	125
19.6	PET DEPOSIT/NON-REFUNDABLE NOMINAL FEE	125
19.7	FINANCIAL OBLIGATION OF RESIDENTS	126
19.8	NUISANCE OR THREAT TO HEALTH OR SAFETY	126
19.9	DESIGNATION OF PET AREAS	126
19.10	MISCELLANEOUS RULES	126
19.11	VISITING PETS	127
19.12	REMOVAL OF PETS	127
20.0	FAMILY DEBTS TO THE PHA	129
20.1	REPAYMENT AGREEMENTS	129
20.2	DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION	131
20.3	WRITING OFF DEBTS	131

21.0	TERMINATION	133
21.1	TERMINATION BY TENANT	133
21.2	TERMINATION BY THE HOUSING AUTHORITY	133
21.2A	VAWA PROTECTIONS	136
21.2B	VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE OR STALKING	137
21.2C	CONFIDENTIALITY	139
21.3	NOTIFICATION REQUIREMENTS	139
21.4	TERMINATIONS FOR CRIMINAL ACTIVITY	140
21.5	ABANDONMENT	140
21.6	RETURN OF SECURITY DEPOSIT	141
21.7	THE EIV'S DECEASED TENANTS REPORT	141
22.0	SUPPORT FOR OUR ARMED FORCES	143
23.0	ANTI-FRAUD POLICY	145
24.0	COMPLAINTS AND APPEALS ADMINISTRATIVE GRIEVANCE PROCEDURES	147
24.1	COMPLAINTS AND APPEALS	147
24.2	ADMINISTRATIVE GRIEVANCE PRODEDURES	150
GLOSSARY		A
ACRONYMS		P

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ADMISSIONS AND CONTINUED OCCUPANCY POLICY

INTRODUCTION

The Low Rent Public Housing Program was created by the U.S. Housing Act of 1937.

Administration of the Public Housing Program and the functions and responsibilities of the Public Housing Authority (PHA) staff shall be in compliance with the PHA's Personnel Policy, this Admissions and Continued Occupancy Policy, and the requirements of the Department of Housing and Urban Development's (HUD's) Public Housing Regulations, Multi-Family Regulations, Handbooks, and Notices, where applicable, as well as all Federal, State and local laws, including Fair Housing Laws and regulations. Changes in applicable federal law or regulations shall supersede provisions in conflict with this policy. Federal regulations shall include those found in Volume 24 CFR, Chapter VII through IX.

In this document, the term "PHA" is used interchangeably with "HA" and "IHA."

A. LOCAL OBJECTIVES

This Admissions and Continued Occupancy Policy for the Public Housing Program is designed to achieve the following objectives:

1. To provide improved living conditions for extremely low, very low and low income families while maintaining their rent payments at an affordable level.
2. To operate a socially and financially sound public housing agency that provides drug-free, decent, safe, and sanitary housing with a suitable living environment for tenants and their families.
3. To avoid concentrations of economically and socially deprived families in any one or all of the HA's public housing developments.
4. To lawfully deny the admission of applicants, or the continued occupancy of residents, whose habits and practices reasonably may be expected to adversely affect the health, safety, comfort or welfare of other residents or the physical environment of the neighborhood, or create a danger to PHA employees.
5. To attempt to house a tenant body in each development that is composed of families with a broad range of incomes and rent-paying abilities that is representative of the range of incomes of low-income families in the PHA's jurisdiction.

6. To promote upward mobility opportunities for families who desire to achieve self-sufficiency.
7. To facilitate the judicious management of the PHA inventory, and the efficient management of the PHA staff
8. To ensure compliance with Title VI of the Civil Rights Act of 1964 and all other applicable Federal laws and regulations so that the admissions and continued occupancy are conducted without regard to race, color, religion, creed, sex, national origin, handicap or familial status.

B. PURPOSE OF THE POLICY

The purpose of this Admission and Continued Occupancy Policy (ACOP) is to establish guidelines for the Housing Authority staff to follow in determining eligibility for admission and continued occupancy. These guidelines are governed by the requirements of the Department of Housing and Urban Development (HUD) with latitude for local policies and procedures. These policies and procedures for admissions and continued occupancy are binding upon applicants, residents, and the PHA.

The original policy and any changes must be approved by the PHA Board of Commissioners, and required portions of this Plan will be provided to HUD.

1.0 FAIR HOUSING (24 CFR 200)

It is the policy of the Oshkosh/Winnebago County Housing Authority to fully comply with all Federal, State and local nondiscrimination laws; the Americans with Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity. The Oshkosh/Winnebago County Housing Authority shall affirmatively further fair housing in the administration of its public housing program.

No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, disability, marital status, sexual orientation, lawful source of income, ancestry, gender identity (24 CFR 5.105(a)(2) or age be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Oshkosh/Winnebago County Housing Authority's programs. No inquiries shall be made about a person's sexual orientation or gender identity. However, the Oshkosh/Winnebago County Housing Authority may inquire about a person's sex in order to determine the number of bedrooms a household may be eligible for under the occupancy standards or to accurately complete HUD's 50058.

To further its commitment to full compliance with applicable Civil Rights laws, the Oshkosh/Winnebago County Housing Authority will provide Federal/State/local information to applicants/tenants of the Public Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information, and all applicable fair housing information and discrimination complaint forms, will be made available at the Oshkosh/Winnebago County Housing Authority office. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

The Oshkosh/Winnebago County Housing Authority will assist any family that believes they have suffered illegal discrimination by providing the family with copies of the appropriate housing discrimination forms. The Oshkosh/Winnebago County Housing Authority will also assist them in completing the forms if requested. The address of the nearest HUD office of Fair Housing and Equal Opportunity is:

Fair Housing Center of North East Wisconsin
4650 Spencer St. #2
Appleton, WI 54914
877-647-FAIR (3247)

Posters and housing information are displayed in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

The PHA shall not automatically deny admission to a particular group or category of otherwise qualified applicants (e.g., families with children born to unmarried parents, elderly families with pets).

The Oshkosh/Winnebago County Housing Authority will keep records of all complaints, investigations, notices and corrective actions for five years.

2.0 REASONABLE ACCOMMODATION (504 OF THE REHABILITATION ACT AND THE FAIR HOUSING ACT)

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the Oshkosh/Winnebago County Housing Authority housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the Oshkosh/Winnebago County Housing Authority will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, the Oshkosh/Winnebago County Housing Authority will ensure that all applicants/tenants are aware of the opportunity to request reasonable accommodations.

This policy is applicable to all situations described in this Admissions and Continued Occupancy Policy when a family initiates contact with the PHA, when the PHA initiates contact with a family including when a family applies, and when the PHA schedules or reschedules appointments of any kind.

It is the policy of this PHA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to the families within our jurisdiction.

The PHA's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be made known by including notices on PHA forms and letters to all families, and all requests will be verified so that the PHA can properly accommodate the need presented by the disability.

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

All PHA mailings will be made available in an accessible format upon request, as a reasonable accommodation.

Verification of a Request for Accommodation

All requests for accommodation or modification of a unit will be verified with a reliable, knowledgeable professional.

The Housing Authority utilizes organizations which provide assistance for hearing- and sight-impaired persons when needed.

2.1 COMMUNICATION

Anyone requesting an application will also receive a Request for Reasonable Accommodation Notice.

Notifications of reexamination, inspection, an appointment, or eviction will include information about requesting a reasonable accommodation. Any notification requesting action by the tenant will include information about requesting a reasonable accommodation.

All decisions granting or denying requests for reasonable accommodations will be in writing.

2.2 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION

- A. Is the requestor a person with disabilities? For this purpose the definition of person with disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. (The disability may not be apparent to others, i.e., a heart condition.)

If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, the Oshkosh/Winnebago County Housing Authority will obtain verification that the person requesting the accommodation is a person with a disability.

- B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the Oshkosh/Winnebago County Housing Authority will obtain documentation that the requested accommodation is needed

due to the disability. The Oshkosh/Winnebago County Housing Authority will not inquire as to the nature of the disability.

- C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:
1. Would the accommodation constitute a fundamental alteration? The Oshkosh/Winnebago County Housing Authority's business is housing. If the request would alter the fundamental business that the Oshkosh/Winnebago County Housing Authority conducts, that would not be reasonable. For instance, the Oshkosh/Winnebago County Housing Authority would deny a request to have the Oshkosh/Winnebago County Housing Authority do grocery shopping for a person with disabilities.
 2. Would the requested accommodation create an undue hardship? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the Oshkosh/Winnebago County Housing Authority may request a meeting with the individual to investigate and consider equally effective alternatives.
- D. Generally the individual knows best what it is he or she needs; however, the Oshkosh/Winnebago County Housing Authority retains the right to be shown how the requested accommodation enables the individual to access or use the Oshkosh/Winnebago County Housing Authority's programs or services.

If more than one accommodation is equally effective in providing access to the Oshkosh/Winnebago County Housing Authority's programs and services, the Oshkosh/Winnebago County Housing Authority retains the right to select the most efficient or economic choice.

The cost necessary to carry out approved requests, including requests for physical modifications, will be borne by the Oshkosh/Winnebago County Housing Authority if there is no one else willing to pay for the modifications. If another party pays for the modification, the Oshkosh/Winnebago County Housing Authority will seek to have the same entity pay for any restoration costs.

If the tenant requests as a reasonable accommodation that they be permitted to make physical modifications at their own expense, the Oshkosh/Winnebago County Housing Authority will generally approve such request if it does not violate codes or affect the structural integrity of the unit.

Any request for an accommodation that would enable a tenant to materially violate essential lease terms will not be approved, i.e., allowing nonpayment of rent, destruction of property, disturbing the peaceful enjoyment of others, etc.

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3.0 SERVICES FOR LIMITED-ENGLISH PROFICIENCY APPLICANTS AND RESIDENTS (24 CFR 8.6 & 8.21)

The Oshkosh/Winnebago County Housing Authority shall do its best, within reason, to assist people with Limited English Proficiency (LEP). This shall be accomplished by assessing the need of LEP persons using the four factors described in the January 22, 2007 Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons; Notice published in the Federal Register. The Oshkosh/Winnebago County Housing Authority shall balance these factors in deciding what to do:

- a. The number or proportion of LEP persons served or encountered in the eligible service area;
- b. The Frequency with which LEP individuals come in contact with the program;
- c. The nature and importance of the program, activity, or service provided by the program; and
- d. The resources available to the Housing Authority and costs.

Depending upon what this analysis reveals, the Oshkosh/Winnebago County Housing Authority may or may not prepare a Language Access Plan (LAP). If a LAP is needed, the guidance outlined in the above reference Notice shall be utilized.

In addition, the Oshkosh/Winnebago County Housing Authority will endeavor to have bilingual staff or access to people who speak languages other than English.

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4.0 FAMILY OUTREACH

The Oshkosh/Winnebago County Housing Authority will publicize the availability and nature of the Public Housing Program for extremely low-income, very low and low-income families in a newspaper of general circulation, minority media, agency website, and by other suitable means.

To reach people who cannot or do not read newspapers, the Oshkosh/Winnebago County Housing Authority will distribute fact sheets to the broadcasting media and initiate personal contacts with members of the news media and community service personnel. The Oshkosh/Winnebago County Housing Authority will also try to utilize public service announcements.

The Oshkosh/Winnebago County Housing Authority will communicate the status of housing availability to other service providers in the community and inform them of housing eligibility factors and guidelines so they can make proper referrals for the Public Housing Program.

The objective of this effort is to develop a waiting list that is representative of our low-income community. A particular emphasis will be placed on attracting eligible individuals and families least likely to apply for public housing.

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5.0 RIGHT TO PRIVACY

All adult members of both applicant and tenant households are required to annually sign HUD Form 9886 for Public Housing and a HUD Form 9887 for Multi-Family Housing, Authorization for Release of Information and Privacy Act Notice. The Authorization for Release of Information and Privacy Act Notice states how family information will be released and includes the Federal Privacy Act Statement.

Any request for applicant or tenant information will not be released unless there is a signed release of information request from the applicant or tenant.

The PHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.

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6.0 REQUIRED POSTINGS

In each of its offices, the Oshkosh/Winnebago County Housing Authority will post, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

- A. Statement of Policies and Procedures governing Admission and Continued Occupancy
- B. Notice of the status of the waiting list (opened or closed)
- C. A listing of all the developments by name, address, number of units, units designed with special accommodations, address of all project offices, office hours, telephone numbers, TDD numbers, and Resident Facilities and operation hours
- D. Income Limits for Admission
- E. Excess Utility Charges
- F. Utility Allowance Schedule
- G. Current Schedule of Routine Maintenance Charges
- H. Dwelling Lease
- I. Grievance Procedure
- J. Fair Housing Poster
- K. Equal Opportunity in Employment Poster
- L. Any current Oshkosh/Winnebago County Housing Authority Notices
- M. The Agency's PHAS score and designation.

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7.0 TAKING APPLICATIONS (24 CFR 8.6 & 8.21)

The policy of the PHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. Families wishing to apply for the Public Housing Program will be required to complete an application for housing assistance. Applications will be accepted during regular business hours at any Housing Authority Leasing Office.

Applications are taken to compile a waiting list. Due to the demand for housing in the Oshkosh/Winnebago County Housing Authority jurisdiction, the Oshkosh/Winnebago County Housing Authority may take applications on an open enrollment basis, depending on the length of the waiting list.

Completed applications will be accepted for all applicants and the Oshkosh/Winnebago County Housing Authority will verify the information. Applicants will be provided the opportunity to complete the information on form HUD-92006, Supplement to Application for Federally Assisted Housing. The form gives applicants the option to identify an individual or organization that the Housing Authority may contact and the reason(s) the individual or organization may be contacted. The applicants, whether or not they choose to provide the additional contact information, must sign and date the form.

If the applicant chooses to have more than one contact person or organization, the applicant must make clear to the Housing Authority the reason each person or organization may be contacted. The Housing Authority will allow the applicant to complete a form HUD-92006 for each contact and indicating the reason the Housing Authority may contact the individual or organization. For example, the applicant may choose to have a relative as a contact for emergency purposes and an advocacy organization for assistance for tenancy purposes.

Those applicants who choose not to provide the contact information should check the box indicating that they “choose not to provide the contact information” and sign and date the form.

Applications may be made in person **during regular business hours, Monday through Friday from 8:00 a.m. to 4:30 p.m.** Applications are available at all Housing Authority offices or may be obtained thru the Housing Authority’s website at www.ohawcha.org.

The completed application will be dated, time stamped, and initialed upon its return to the Oshkosh/Winnebago County Housing Authority.

Persons with disabilities who require a reasonable accommodation in completing an application may call the Oshkosh/Winnebago County Housing Authority to make special arrangements. Wisconsin Relay, a free public service for communication between

standard (voice) users and persons who are deaf, hard-of-hearing, deaf-blind, and speech-disabled using text telephones (TTYs) or PCs via the internet is available by dialing 711 (CapTel users 877-243-2823)

The application process will involve two phases. Upon receipt of the family's application, the Oshkosh/Winnebago County Housing Authority will make a preliminary determination of eligibility. The first phase establishes any preferences to which they may be entitled and results in an apparently eligible family's placement on the waiting list. If the Oshkosh/Winnebago County Housing Authority determines the family to be ineligible, notice will be sent stating the reasons therefore and will offer the family the opportunity of an informal review of the determination.

The applicant may at any time report changes in writing regarding their applicant status including changes in family composition, income, or preference factors. The Oshkosh/Winnebago County Housing Authority will annotate the applicant's file and will update their place on the waiting list.

The second phase is to determine final eligibility. The Oshkosh/Winnebago County Housing Authority will ensure that verification of all preferences, eligibility, suitability and selection factors are completed and are less than 90 calendar days old in order to determine the family's final eligibility for admission into the Public Housing Program.

Applicants will also be given the opportunity to update their HUD Form 92006 if applicable and if they so desire.

8.0 ELIGIBILITY FOR ADMISSION (24 CFR 960.201)

8.1 INTRODUCTION

There are five eligibility requirements for admission to public housing: qualifies as a family, has an income within the income limits, meets citizenship/eligible immigrant criteria, provides documentation of Social Security numbers, and signs consent authorization documents. In addition to the eligibility criteria, families must also meet the Oshkosh/Winnebago County Housing Authority screening criteria in order to be admitted to public housing.

8.2 ELIGIBILITY CRITERIA

- A. Family Status - All families must have a Head of Household or Co-Heads of Household. Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status (24 CFR 5.403):
 - 1. A **family with or without children**. Such a family is defined as a group of people related by blood, marriage, adoption or affinity (regardless of actual or perceived sexual orientation, gender identity, or marital status) that live together in a stable family relationship.
 - a. Children temporarily absent from the home due to placement in foster care are considered family members.
 - b. Unborn children and children in the process of being adopted are considered family members for the purpose of determining bedroom size but are not considered family members for determining income limit.
 - 2. An **elderly family**, which is:
 - a. A family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age;
 - b. Two or more persons who are at least 62 years of age living together; or
 - c. One or more persons who are at least 62 years of age living with one or more live-in aides.

3. A **near-elderly family**, which is:
 - a. A family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62;
 - b. Two or more persons who are at least 50 years of age, but below the age of 62, living together; or
 - c. One or more persons who are at least 50 years of age, but below the age of 62, living with one or more live-in aides.
4. A **disabled family**, which is:
 - a. A family whose head (including co-head), spouse, or sole member is a person with a disability;
 - b. Two or more persons with disabilities living together; or
 - c. One or more persons with disabilities living with one or more live-in aides.
 - d. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.
5. A **displaced family**, which is a family in which each member, or whose sole member, has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
6. A **remaining member of a tenant family**. If the remaining member of a tenant family is a minor or minors, it will be necessary for an adult to temporarily move into a unit to serve as a guardian for children residing in the unit. The income received by the temporary guardian will be counted in determining family income. Although typically a criminal background check is required before anyone can move into a public housing unit, this requirement will be waived for a guardian in this situation. Instead, the background check will occur after the person moves in. If the results of the check dictate that the person is ineligible for public housing, the family shall be given a reasonable time to find a replacement guardian or vacate the property.

7. A **single person** who is not an elderly or displaced person, a person with disabilities, or the remaining member of a tenant family.

B. Income Eligibility (24 CFR 5.609 & 5.653)

1. To be eligible for admission to developments or scattered-site units, the family's annual income must be within the low-income limit set by HUD. This means the family income cannot exceed 80 percent of the median income for the area. If the property has Low Income Housing Tax Credits on it, a lower income cap will apply.
2. Income limits apply only at admission and are not applicable for continued occupancy.
3. A family may not be admitted to the public housing program from another assisted housing program (e.g., tenant-based Section 8) or from a public housing program operated by another housing authority without meeting the income requirements of the Oshkosh/Winnebago County Housing Authority.
4. If the Oshkosh/Winnebago County Housing Authority acquires a property for federal public housing purposes, the families living there must have incomes within the low-income limit in order to be eligible to remain as public housing residents.
5. Income limit restrictions do not apply to families transferring within our Public Housing Program.
6. The Oshkosh/Winnebago County Housing Authority may allow police officers who would not otherwise be eligible for occupancy in public housing to reside in a public housing dwelling unit. Such occupancy must be needed to increase security for public housing residents. Their rent shall at least equal the cost of operating the public housing unit.
7. If there are no eligible families on the waiting list and the Oshkosh/Winnebago County Housing Authority has published a 30 calendar day notice of available units in at least one newspaper of general circulation, families above the applicable income limit may be housed. They must vacate the unit if an eligible family applies.

C. Citizenship/Eligibility Status (24 CFR Subpart E)

1. To be eligible for public housing each member of the family must be a citizen, national, or a non-citizen who has eligible immigration status under one of the categories set forth in Section 214 of the Housing and

Community Development Act of 1980 (see 42 U.S.C. 1436a(a)) or a citizen of the Republic of Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. However, people in the last category are not entitled to housing assistance in preference to any United States citizen or national resident within Guam.

2. Family eligibility for assistance.

- a. A family shall not be eligible for assistance unless at least one member of the family residing in the unit is determined to have eligible status, with the exception noted below.
- b. Despite the ineligibility of one or more family members, a mixed family may be eligible for one of three types of assistance (See Section 13.11 for calculating rents under the non-citizen rule).
- c. A family without any eligible members and receiving assistance on June 19, 1995, may be eligible for temporary deferral of termination of assistance.
- d. All adults, or their legal representative, must be able to sign the lease.

D. Social Security Number Documentation (24 CFR 5.216)

Prior to admission, every family member regardless of age must provide the Oshkosh/Winnebago County Housing Authority with a complete and accurate Social Security Number unless they do not contend eligible immigration status. New family members must provide this verification prior to being added to the lease. If the new family member is under the age of six and has not been assigned a Social Security Number, the family shall have ninety (90) calendar days after starting to receive the assistance to provide a complete and accurate Social Security Number. The Housing Authority may grant one ninety (90) day extension for newly-added family members under the age of six if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and was outside the control of the person.

If a person is already a program participant and has not disclosed his or her Social Security Number, it must be disclosed at the next re-examination or re-certification.

Participants aged 62 or older as of January 31, 2010 whose initial eligibility determination was begun before January 31, 2010 are exempt from the required disclosure of their Social Security Number. This exemption continues even if the individual moves to a new assisted unit.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, the Housing Authority will accept an original document issued by a federal or state government agency, which contains the name of the individual and the Social Security Number of the individual, along with other identifying information of the individual or such other evidence of the Social Security Number as HUD may prescribe in administrative instructions.

If a member of an applicant family indicates they have a Social Security Number, but cannot readily verify it, the family cannot be assisted until verification is provided. If the Social Security Number of each household member cannot be provided to the Oshkosh/Winnebago County Housing Authority within ten (10) calendar days of it being requested, the family shall be removed from the waiting list. During this ten (10) calendar days, if all household members have not disclosed their SSN at the time a unit becomes available, the Oshkosh/Winnebago County Housing Authority must offer the available unit to the next eligible applicant family on the waiting list.

If an individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated. The Housing Authority may grant one ninety (90) day extension from termination if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and there is a reasonable likelihood that the person will be able to disclose a Social Security Number by the deadline.

E. Signing Consent Forms (24 CFR 5.230 & 5.232)

1. In order to be eligible, each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.
2. The consent form must contain, at a minimum, the following:
 - a. A provision authorizing HUD or the Oshkosh/Winnebago County Housing Authority to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy;

- b. A provision authorizing HUD or the Oshkosh/Winnebago County Housing Authority to verify with previous or current employers or other sources of income information pertinent to the family's eligibility for or level of assistance;
- c. A provision authorizing HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level of benefits;
- d. A statement allowing the Oshkosh/Winnebago County Housing Authority permission to access the applicant's criminal record with any and all police and/or law enforcement agencies, and
- e. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

F. Special College Student Eligibility Rules (24 CFR 5.612)

In order to be eligible for public housing, college students living outside their parents or guardians homes must have established a separate household for at least one year prior to applying to the public housing program. This will be verified by presenting to the Oshkosh/Winnebago County Housing Authority evidence of the establishment of the separate household.

The college student must not be claimed as a dependent by parents or guardians on their IRS returns. This will be verified by examining the student's IRS return for the previous year. The Oshkosh/Winnebago County Housing Authority will examine the box that asks if someone else claimed them on their tax return.

8.3 ***SUITABILITY (24 CFR 5.655)***

- A. Applicant families will be evaluated to determine whether, based on their recent behavior, such behavior could reasonably be expected to result in compliance with the public housing lease. The Oshkosh/Winnebago County Housing Authority will look at past conduct as an indicator of future conduct. Emphasis will be placed on whether a family's admission could reasonably be expected to have a detrimental effect on the development environment, other tenants, Oshkosh/Winnebago County Housing Authority employees, or other people residing in the immediate vicinity of the property. Otherwise eligible families will be denied admission if they fail to meet the suitability criteria.

- B. The Oshkosh/Winnebago County Housing Authority will consider objective and reasonable aspects of the family's background, including the following:
1. History of meeting financial obligations, especially rent and any utility payments [24 CFR 960.203(c)(1)];
 2. Ability to maintain (or with assistance would have the ability to maintain) their housing in a decent and safe condition based on living or housekeeping habits and whether such habits could adversely affect the health, safety, or welfare of other tenants;
 3. History of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well-being of other tenants or staff or cause damage to the property [24 CFR 960.204 & 960.203(c)(3)];
 4. History of disturbing neighbors or destruction of property [24 CFR 960.203(c)(2)];
 5. Having committed fraud in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from; and
 6. History of abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment by others. (24 CFR 960.204)
- C. The Oshkosh/Winnebago County Housing Authority will ask applicants to provide information demonstrating their ability to comply with the essential elements of the lease. The Oshkosh/Winnebago County Housing Authority will verify the information provided. Such verification may include but may not be limited to the following:
1. A credit check of the head, spouse, co-head, and any other adult family members (24 CFR 960.259);
 2. A dwelling history check of all adult family members. (For Public Housing applicants: Applicants must document at least 24 months of lease compliant behavior in the past five years. Any applicant without two years of acceptable recent landlord references will only be considered when the PHA concludes mitigating circumstances warrant further evaluation.);

3. A criminal background check on all adult household members, including live-in aides at no cost to the applicant. This check will be made through State or local law enforcement or court records in those cases where the household member has lived in the local jurisdiction for the last three (3) years. Applicants will provide a complete list of all states in which any household member has resided (24 CFR 5.586 and 5.905). Where the individual has lived outside the local area, the Oshkosh/Winnebago County Housing Authority may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC). This criminal background check will proceed after each adult household member has signed a consent form designed by the Oshkosh/Winnebago County Housing Authority.

The information received as a result of the criminal background check shall be used solely for screening, lease enforcement and eviction purposes. The information derived from the criminal background check shall be shared only with employees of the Oshkosh/Winnebago County Housing Authority who have a job-related need to have access to the information. The information shall be maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which it was requested has been accomplished and the period for filing a challenge to the Oshkosh/Winnebago County Housing Authority's action has expired without a challenge or final disposition of any litigation has occurred;

4. A home visit. The home visit provides the opportunity for the family to demonstrate their ability to maintain their home in a safe and sanitary manner. This inspection considers cleanliness and care of rooms, appliances, and appurtenances. The inspection may also consider any evidence of criminal activity; and
5. A check of the State's lifetime sex offender registration program for each adult household member, including live-in aides. No household with an individual registered under a state lifetime sex offender registration will be admitted to public housing. The Oshkosh/Winnebago County Housing Authority will check with our State registry and if the applicant has resided in another State(s), with that State(s)'s list. The Oshkosh/Winnebago County Housing Authority will utilize the US Department of Justice's Dru Sjodin National Sex Offender website as an additional resource. The Dru Sjodin National Sex Offender Database is an online, searchable database, hosted by the Department of Justice, which combines the data from individual state sex offender registries.

If an applicant is about to be denied housing based on either the criminal check or the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the denial or eviction occurs.

8.4 *GROUND'S FOR DENIAL (24 CFR 960.204 & 880.603)*

The Oshkosh/Winnebago County Housing Authority is not required or obligated to assist families where applicants or members of the applicant's household:

- A. Any family whose tenancy in a housing authority owned unit or assisted unit is terminated during a previous participation would be ineligible for re-admission until their sanction expires. Future eligibility will be suspended as of the previous termination based upon the nature of the violations. See attachment at the end of this chapter.
- B. Do not meet any one or more of the eligibility criteria;
- C. Do not supply information or documentation or sign forms required by the application process;
- D. Have failed to respond to a written request for information or a request to declare their continued interest in the program;
- E. Have a history of not meeting financial obligations, especially rent;
- F. Do not have the ability to maintain (with assistance) their housing in a decent and safe condition where such habits could adversely affect the health, safety, or welfare of other tenants;
- G. Have a history of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well-being of other tenants or staff or cause damage to the property [24 CFR 960.203(c)(3)];

For the purposes of this policy, this is construed to mean that a member of the current family has been arrested and/or convicted of any such criminal activity within the past 60 months, or if there is a record of habitual criminality within the past 60 months.

Being a victim of domestic violence, dating violence, sexual assault or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission. The

Authority will require verification in all cases where an applicant claims protection against an action proposed to be taken by the Authority involving such individual. Types of acceptable verifications are outlined in Section 21.2B of the ACOP, and must be submitted within 14 business days after receipt of the Housing Authority's written request for verification.

- H. Have a history of disturbing neighbors or destruction of property [24 CFR 960.203(c) (2)];
- I. Currently owes rent or other amounts to any housing authority in connection with their public housing or Section 8 programs;
- J. Have committed fraud, bribery or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;
- K. Were evicted from federally assisted housing within the past **five (5)** years because of drug-related criminal activity. The **five (5)** year limit is based on the date of such eviction, not the date the crime was committed. [24 CFR 960.204 & 960.203(c) (3)]

However, the Oshkosh/Winnebago County Housing Authority may admit the household if the PHA determines:

- 1. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the Oshkosh/Winnebago County Housing Authority; or
 - 2. The circumstances leading to the eviction no longer exist (for example, the criminal household member is imprisoned or has died).
- L. Are currently engaging in the illegal use of a controlled substance. For purposes of this section, a member is "currently engaged in" the criminal activity if the person has engaged in this recently enough to justify a reasonable belief that the behavior is current;
 - M. The Oshkosh/Winnebago County Housing Authority determines that it has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;

With respect to criminal activity described in paragraphs J, K, L, and M of this Section, Oshkosh/Winnebago County Housing Authority may require an applicant to exclude a household member in order to be admitted to public

housing where that household member has participated in or been culpable for actions described in paragraphs J, K, L, and M that warrants denial.

- N. The Oshkosh/Winnebago County Housing Authority determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- O. Have engaged in or threatened abusive or violent behavior towards any Oshkosh/Winnebago County Housing Authority staff member or resident;
- P. Fugitive felons, parole violators, and persons fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees;
- Q. **Denied for Life:** If any family member has been convicted of manufacturing or producing methamphetamine (speed) in a public housing development, in a Section 8 assisted property, or on the premises of other federally assisted housing;
- R. **Denied for Life:** Has a lifetime registration under a State sex offender registration program.

In determining whether to deny admission for illegal drug use by a household member who is no longer engaging in such abuse, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the Oshkosh/Winnebago County Housing Authority may consider whether such household member:

- 1. Is participating in a supervised drug or alcohol rehabilitation program;
- 2. Has successfully completed a supervised drug or alcohol rehabilitation program; or
- 3. Has otherwise been successfully rehabilitated.

For this purpose, Oshkosh/Winnebago County Housing Authority will require the applicant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The PHA requirements for Drug-Related, Violent and/or Other Criminal Activity will be waived, in instances where the outcome of a criminal act resulted in a misdemeanor sentence and/or civil forfeiture when there is not a pattern of repeated Drug-Related, Violent and/or Other Criminal Activity. The family member may be required to provide law enforcement narrative incident reports that document the incident and why charges were diminished and/or expunged. Further requirements may apply, including as

described below. Failure to provide such documentation will result in a denial of eligibility.

Before the Oshkosh/Winnebago County Housing Authority denies admission to the Oshkosh/Winnebago County Housing Authority's public housing program on the basis of a criminal record, the Oshkosh/Winnebago County Housing Authority must notify the household of the proposed action and must provide the person with the criminal record (i.e., a child) and the applicant (head of household) with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record. The applicant will have **Fourteen (14)** calendar days to dispute the accuracy and relevance of the record in writing. If the Oshkosh/Winnebago County Housing Authority does not receive the dispute within the allotted time, the applicant will be denied.

S. Prohibited Criteria for Denial of Admission: Applicants will NOT be rejected because they:

- Have no income;
- Are not employed (Unless a Work Preference applies);
- Do not participate in a job training program;
- Will not apply for various welfare or benefit programs;
- Have children;
- Have children born out of wedlock;
- Are on welfare;
- Are students.

8.5 INFORMAL REVIEW (24 CFR 960.208)

A. If the Oshkosh/Winnebago County Housing Authority determines that an applicant does not meet the criteria for receiving public housing assistance, the Oshkosh/Winnebago County Housing Authority will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision and state that the applicant may request in writing an informal review of the decision within ten (10) business days from the date on the notification of denial. The Oshkosh/Winnebago County Housing Authority will describe how to obtain the informal review.

The informal review may be conducted by any person designated by the Oshkosh/Winnebago County Housing Authority, other than a person who made or approved the decision under review or subordinate of this person. The applicant must be given the opportunity to present written or oral objections to the Oshkosh/Winnebago County Housing Authority's decision. The Oshkosh/Winnebago County Housing Authority must notify the applicant of the final decision within a reasonable timeframe after the informal review, including a brief statement of the reasons for the final decision.

- B. The applicant may request that the Oshkosh/Winnebago County Housing Authority provide for an Informal Hearing after the family has notification of an INS decision on their citizenship status on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant within 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or within 30 calendar days of receipt of the INS appeal decision.

For the applicants, the Informal Hearing Process above will be utilized with the exception that the applicant will have up to 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision.

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9.0 MANAGING THE WAITING LIST (24 CFR 5.400, 5.600, 960.201 & 960.208)

It is the PHA's objective to ensure that the families are placed in the proper order on the waiting list so that the offer of a unit is not delayed unnecessarily or made to any family prematurely. This chapter explains the policies for the management of the waiting list.

This chapter defines the eligibility criteria for the local preferences and explains the PHA's system for applying them.

By maintaining an accurate waiting list, the PHA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available to fill unit vacancies in a timely manner.

9.1 *OPENING AND CLOSING THE WAITING LIST (24 CFR 960.206)*

Opening of the waiting list will be announced with a public notice stating that applications for public housing will again be accepted. The public notice will state where, when, and how to apply. The notice will be published in a local newspaper of general circulation and also by any available minority media. The public notice will state any limitations to who may apply.

The notice will state that applicants already on waiting lists for other housing programs must apply separately for this program and such applicants will not lose their place on other waiting lists when they apply for public housing. The notice will include the Fair Housing logo and slogan and will be in compliance with Fair Housing requirements.

Closing of the waiting list will also be announced with a public notice. The public notice will state the date the waiting list will be closed and for what bedroom sizes. The public notice will be published in a local newspaper of general circulation and also by any available minority media.

9.2 *ORGANIZATION OF THE WAITING LIST*

The PHA will administer its waiting list as required by 24 CFR Part 5, Subparts E and F, Part 945 and 960.201 through 960.208. The waiting list will be maintained in accordance with the following guidelines:

- A. The application will be a permanent file;
- B. All applications will be maintained in order of bedroom size, preference, and then in order of date and time of application; and

- C. Any contact between the Oshkosh/Winnebago County Housing Authority and the applicant will be documented in the applicant file.

9.3 *FAMILIES NEARING THE TOP OF THE WAITING LIST*

The PHA will conduct a detailed interview of all applicants. The interview form will contain questions designed to evaluate the qualifications of applicants to meet the essential requirements of tenancy. Answers will be subject to third party verification. It is at this point in time that the family's waiting list preference will be verified. If the family no longer qualifies to be near the top of the list, the family's name will be returned to the appropriate spot on the waiting list. The Oshkosh/Winnebago County Housing Authority must notify the family in writing of this determination and give the family the opportunity for an informal review.

Once the preference has been verified, the family will complete a full application, present Social Security number information, citizenship/eligible immigrant information, and sign the Consent Authorization forms.

9.4 *PURGING THE WAITING LIST*

The Oshkosh/Winnebago County Housing Authority will update and purge its waiting list at least biennially to ensure that the pool of applicants reasonably represents the interested families for whom the Oshkosh/Winnebago County Housing Authority has current information, i.e., applicant's address, family composition, income category, and preferences.

9.5 *REMOVAL OF APPLICANTS FROM THE WAITING LIST (24 CFR 960.206)*

The Oshkosh/Winnebago County Housing Authority will not remove an applicant's name from the waiting list unless:

- A. The applicant requests in writing that the name be removed, or;
- B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program, or;
- C. The applicant does not meet either the eligibility or suitability criteria for the program, or;
- D. The applicant is housed.

Applicants will be offered the right to an informal review before being removed from the waiting list.

9.6 MISSED APPOINTMENTS

All applicants who fail to keep a scheduled appointment with the Oshkosh/Winnebago County Housing Authority will be sent a notice of termination of the process for eligibility.

The Oshkosh/Winnebago County Housing Authority will allow the family to reschedule for good cause. Generally, no more than two (2) opportunities will be given to reschedule without good cause, or no more than three (3) opportunities will be given for good cause. When good cause exists for missing an appointment, the Oshkosh/Winnebago County Housing Authority will work closely with the family to find a more suitable time.

9.7 NOTIFICATION OF NEGATIVE ACTIONS

Any applicant whose name is being removed from the waiting list will be notified by the Oshkosh/Winnebago County Housing Authority, in writing, that they have ten (10) business days from the date of the written correspondence to present mitigating circumstances or request in writing an informal review. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the timeframe specified. The Oshkosh/Winnebago County Housing Authority system of removing applicant names from the waiting list will not violate the rights of persons with disabilities. If an applicant claims that their failure to respond to a request for information or updates was caused by a disability, the Oshkosh/Winnebago County Housing Authority will verify that there is in fact a disability and the disability caused the failure to respond, and will provide a reasonable accommodation. An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

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10.0 TENANT SELECTION AND ASSIGNMENT PLAN

10.1 CHANGES PRIOR TO UNIT OFFER

Changes that occur during the period between placement on the waiting list and an offer of a suitable unit may affect the family's eligibility. The family will be notified in writing of changes in their eligibility and offered their right to an informal hearing.

- A. Split Households. When a family on the waiting list splits into two otherwise eligible families due to a divorce or legal separation, and both families claim the same placement on the waiting list, and there is no court determination, the PHA will make the decision taking into consideration the following factors:

Which family member applied as head of household;
Which family unit retains the children or any disabled or elderly members;
Role of domestic violence in the split;
Recommendations of social service agencies or qualified professionals, such as children's protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the PHA.

- B. Multiple Families in Same Household. When a family applies that consist of two families living together (such as a mother and father, and a daughter with her own husband or children) they will be treated as a family unit.

- C. Joint Custody of Children

Children who are subject to a joint custody agreement but live with one parent at least 50% or more of the time will be considered members of the household. 50% or more of the time is defined as 183 days of the year, which do not have to run consecutively.

Placement is determined in the following order:

1. The parent whose address is listed in the school records, and
2. The parent who based on court documents has majority placement, and
3. The parent who based on current IRS/Tax records claims the child as a dependent.

10.2 PREFERENCES (24 CFR 903.7, 960.206 & 5.655)

Preferences are used to establish the order of placement and selection among applicants on the waiting list for each program.

A preference does not guarantee admission to the program.

The residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

PREFERENCE POSITIONING:

Initially, an applicant's preference to specific projects will determine which waiting lists that applicant is placed on since some projects have designated Preferences due to HUD Program requirements.

The following is the HUD Program designations per Project:

Buildings Designated for the Elderly and Disabled (Mixed Population Developments): Preference will be given to elderly and disabled families. If there are no elderly or disabled families on the list, preference will then be given to near-elderly families. If there are no near-elderly families on the waiting list, units will be offered to families who qualify for the appropriate bedroom size. Using these priorities, families will be selected from the waiting list using the local housing needs and priorities outlined below.

Buildings Designated as Elderly Only Housing: have been approved by HUD as being designated for elderly only (62 and older). Using these priorities, families will be selected from the waiting list using the local housing needs and priorities as outlined below.

Buildings Designated as Elderly & Near-Elderly Only: have been approved by HUD as being designated for Low-income persons fifty years of age and older but preferences are given to residents of Winnebago County, applicants over 62 years of age, and veterans. Using these priorities, families will be selected from the waiting list using the local housing needs and priorities as outlined below.

Buildings Designated for Disabled Only Housing: has been approved by HUD as being designated for persons with disabilities only. In filling vacancies in this development, first priority will be given to disabled families. If there are no disabled families on the list, next priority will be given to families who qualify for the appropriate bedroom size. Using these priorities, families will be selected from the waiting list using the local housing needs and priorities as outlined below.

Building Designated Multi-Family: has been approved by HUD as being designated for families. Families will be selected from the waiting list using the local housing needs and priorities as outlined below.

Accessible Units: Accessible units will be first offered to families who may benefit from the accessible features who reside in the development that has the vacancy. If there are no families residing in that development needing the accessible unit, the unit shall then be offered to families residing in other developments who may benefit from the accessible unit. If there are no families residing in the other developments needing the accessible unit, it shall then be offered to applicants on the waiting list who may benefit from the accessible features. Applicants for these units will be selected from the waiting list using the local housing needs and priorities as outlined below.

If there are no applicants who would benefit from the accessible features, the units will be offered to other applicants in the order that their names come to the top of the waiting list. Such applicants, however, will be requested to sign a lease rider stating they will accept a transfer (at the Housing Authority's expense) if, at a future time, a family requiring an accessible feature applies or a family requires a transfer from a non-accessible unit. Any family required to transfer will be given a 30-day notice.

POINT SYSTEM APPLIED TO LOCAL HOUSING NEEDS AND PRIORITIES

The date and time of application will be noted and utilized to determine the sequence within the **local housing needs and priorities**.

The order of selection among the local housing needs and priorities is based on the PHA's system for weighing these preferences and the HUD requirement that elderly and disabled families and displaced singles will always be selected before other singles.

LOCAL HOUSING NEEDS AND PRIORITIES

Subsequently, the HA will select families based on the following preferences within each bedroom size category based on our local housing needs and priorities:

- A. Residency: Head of household or other adult household member has a permanent residence or employment (or written offer of employment) in Winnebago County, Wisconsin. The residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

- B. Veteran of the U.S. Armed Forces separated as Honorably Discharged or General Discharge (subject to DD214 confirmation).
- C. Displaced from dwelling unit by government action or natural disaster (**not** an eviction or mortgage foreclosure).
- D. Household member with a mobility, sight or hearing impairment that is occupying an inaccessible dwelling unit.
- E. Elderly 62 and over.
- F. All other applicants.

A public hearing must be held before the HA adopts any local preference. The hearing will be publicized using the same guidelines as those for opening and closing the waiting list.

Every applicant must still meet the PHA's Selection Criteria as defined in this policy.

10.2.1 HOUSING FOR FEDERALLY DECLARED DISASTER VICTIMS

In the case of a federally declared disaster, the Oshkosh/Winnebago County Housing Authority reserves the right for its Executive Director to suspend its preference system for whatever duration the Executive Director feels is appropriate and to admit victims of the disaster to the program instead of those who would be normally admitted. Any other provisions of this policy can also be suspended during the emergency at the discretion of the Executive Director so long as the provision suspended does not violate a law. If regulatory waivers are necessary, they shall be promptly requested of HUD.

10.3 ASSIGNMENT OF BEDROOM SIZES

The following guidelines will determine each family's unit size without overcrowding or over-housing:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10
6	6	12

Efficiency units will only be assigned to one-person families. Separate bedrooms shall be allocated for persons of the opposite sex, other than adults who have a spousal relationship and children under 6.

In determining bedroom size, the Oshkosh/Winnebago County Housing Authority will include the presence of children to be born to a pregnant woman, children who are in the process of being adopted, children whose custody is being obtained, children currently under a 50% or more joint custody decree, children who are temporarily away at school, or children who are temporarily in foster care.

- A. In addition, the following considerations may be taken in determining bedroom size:
1. Children of the same sex may share a bedroom.
 2. Children of the opposite sex, both under the age of 6, will share a bedroom.
 3. Adults and children will not be required to share a bedroom.
 4. Live-in aides will get a separate bedroom. No additional bedrooms are provided for the attendant's family.

B. Exceptions to normal bedroom size standards include the following:

1. Units smaller than assigned through the above guidelines. A family may request a smaller unit size than the guidelines allow. The Oshkosh/Winnebago County Housing Authority will allow the smaller size unit so long as generally no more than two (2) people per bedroom are assigned. In such situations, the family will sign a certification stating they understand they will be ineligible for a larger size unit for 1 year or until the family size changes, whichever may occur first.
2. Units larger than assigned through the above guidelines. A family may request a larger unit size than the guidelines allow. The Oshkosh/Winnebago County Housing Authority will allow the larger size unit if the family provides a verified medical or disability related need that the family be housed in a larger unit.
3. If there are no families on the waiting list for a larger size, smaller families may be housed if they sign a release form stating they will transfer (at the family's own expense) to the appropriate size unit when an eligible family needing the larger unit applies. The family transferring will be given a thirty (30) calendar day notice before being required to move. (Multi-family buildings require families that can move within 60 days)
4. Larger units may be offered in order to improve the marketing of a development suffering a high vacancy rate.
5. In no event will a single person who is not an elderly person or a displaced person, or a person with disabilities be provided with a unit that is larger than one-bedroom.

10.4 SELECTION FROM THE WAITING LIST (24 CFR 960.202)

The Oshkosh/Winnebago County Housing Authority shall follow the statutory requirement that at least 40% of newly admitted families in any fiscal year be families whose annual income is at or below 30% of the area median income. To ensure this requirement is met we shall quarterly monitor the incomes of newly admitted families and the incomes of the families on the waiting list. If it appears that the requirement to house extremely low-income families will not be met, we will skip higher income families on the waiting list to reach extremely low-income families.

The fiscal year credit for voucher program admissions that exceeds the minimum voucher program targeting requirement shall not exceed the lower of:

- A. Ten percent (10%) of public housing waiting list admissions during the Oshkosh/Winnebago County Housing Authority fiscal year;

- B. Ten percent (10%) of waiting list admissions to the Oshkosh/Winnebago County Housing Authority's Section 8 tenant-based assistance program during the PHA fiscal year; or
- C. The number of qualifying low-income families who commence occupancy during the fiscal year of Oshkosh/Winnebago County Housing Authority public housing units located in census tracts with a poverty rate of thirty percent (30%) or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

If there are not enough extremely low-income families on the waiting list we will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement.

10.5 DECONCENTRATION POLICY

It is the Oshkosh/Winnebago County Housing Authority's policy to provide for deconcentration of poverty and encourage income mixing by bringing higher income families into lower income developments and lower income families into higher income developments. Toward this end, we will skip families on the waiting list to reach other families with a lower or higher income. We will accomplish this in a uniform and non-discriminating manner.

The Oshkosh/Winnebago County Housing Authority will affirmatively market our housing to all eligible income groups. Lower income residents will not be steered toward lower income developments and higher income people will not be steered toward higher income developments.

Prior to the beginning of each fiscal year, we will analyze the income levels of families residing in each of our developments and the income levels of the families on the waiting list. Based on this analysis, we will determine the level of marketing strategies and deconcentration incentives to implement.

10.6 DECONCENTRATION INCENTIVES

The Oshkosh/Winnebago County Housing Authority may offer one or more incentives to encourage applicant families whose income classification would help to meet the deconcentration goals of a particular development.

Various incentives may be used at different times, or under different conditions, but will always be provided in a consistent and nondiscriminatory manner.

10.7 OFFER OF A UNIT

When the Oshkosh/Winnebago County Housing Authority discovers that a unit will become available, we will contact the first family on the waiting list who has the highest priority for this type of unit or development and whose income category would help to meet the deconcentration goal and/or the income targeting goal.

The Oshkosh/Winnebago County Housing Authority will contact the family first by telephone to make the unit offer. If the family cannot be reached by telephone, the family will be notified of a unit offer via first class mail. The family will be given five (5) calendar days, from the date the family was contacted by telephone or from the date the letter was mailed, to contact the Oshkosh/Winnebago County Housing Authority regarding the offer.

The family will be offered the opportunity to view the unit. The family will have one (1) business day to accept or reject the unit after viewing the unit. This verbal offer and the family's decision must be documented in the tenant file. If the family rejects the offer of the unit, the Oshkosh/Winnebago County Housing Authority will send the family a letter documenting the offer and the rejection.

The PHA will make every effort to accurately estimate an approximate date of occupancy. However, the date given by the PHA does not mean that applicants should expect to be housed by that date. The availability of a suitable unit to offer a family is contingent upon factors not directly controlled by the PHA, such as turnover rates, and market demands as they affect bedroom sizes and project location. (24 CFR 960.208)

10.8 REJECTION OF UNIT

If in making the offer to the family the Oshkosh/Winnebago County Housing Authority skipped over other families on the waiting list in order to meet their deconcentration goal or offered the family any other deconcentration incentive and the family rejects the unit, the family will not lose their place on the waiting list and will not be otherwise penalized.

If the Oshkosh/Winnebago County Housing Authority did not skip over other families on the waiting list to reach this family, did not offer any other deconcentration incentive, and the family rejects the unit without good cause, the family will only receive one additional offer prior to losing their place on the waiting list.

If an applicant is willing to accept the unit offered, but is unable to take occupancy at the time of the offer for "*good cause*," the applicant will not be placed at the bottom of the waiting list.

Examples of "*good cause*" reasons for the refusal to take occupancy of a housing unit include, but are not limited to:

- Inaccessibility to source of employment or children's day care such that an adult household member must quit a job, drop out of an educational institution or a job training program;
- The family demonstrates to the PHA's satisfaction that accepting the offer will result in a situation where a family member's life, health or safety will be placed in jeopardy. The family must offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. The reasons offered must be specific to the family. Refusals due to the location of the unit alone are not considered to be good cause.
- A qualified, knowledgeable, health professional verifies that temporary hospitalization or recovery from illness of the principal household member, other household members, or a live-in aide necessary to care for the principal household member;
- An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing. [24 CFR 945.303(d)]
- The applicant file will be on "hold" at the top of the waitlist until 60 days prior to the end of their existing lease (if they show proof of a 60 day lease term requirement).

10.9 ACCEPTANCE OF UNIT & EXECUTION OF LEASE

Prior to signing the lease, all families (head of household) and other adult family members will be required to attend the Lease and Occupancy Orientation when they are initially accepted for occupancy. The family will not be housed if they have not attended the orientation. Applicants who provide prior notice of an inability to attend the orientation will be rescheduled. Failure of an applicant to attend the orientation, without good cause, may result in the cancellation of the occupancy process. The orientation shall include the resident's rights and responsibilities under the Violence Against Women Act.

The applicant will be provided a copy of the lease, the grievance procedure, house rules, any applicable utility allowances, utility charges and other notices, the current schedule of routine maintenance charges, and a request for reasonable accommodation form if they ask. These documents will be explained in detail. The applicant will sign a certification that they have received these documents and that they have reviewed them with Housing Authority personnel. The certification will be filed in the tenant's file.

The signing of the lease and the review of financial information are to be privately handled. The head of household, all adult family members, and an authorized representative for the Housing Authority will be required to execute the lease prior to admission. One executed copy of the lease will be furnished to the head of household and the Oshkosh/Winnebago County Housing Authority will retain the original executed

lease in the tenant's file.

The family will pay a security deposit at the time of lease signing. The security deposit will be equal to the following:

A. A set amount determined by the Housing Authority.

In exceptional situations, the Oshkosh/Winnebago County Housing Authority reserves the right to allow a new resident to pay their security deposit in up to six (6) payments. The initial payment will be equal to 20% of the total security deposit. The remaining balance due will be divided up into 5 equal monthly payments. This shall be at the sole discretion of the Housing Authority.

11.0 INCOME, EXCLUSIONS, AND DEDUCTIONS FROM INCOME (24 CFR 5.609)

To determine annual income, the Oshkosh/Winnebago County Housing Authority adds the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, the Oshkosh/Winnebago County Housing Authority subtracts all allowable deductions (allowances) to determine the Total Tenant Payment.

11.1 INCOME

Annual income means all amounts, monetary or not, that:

- A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- C. Are not specifically excluded from annual income.

If it is not feasible to anticipate a level of income over a 12-month period (e.g. seasonal or cyclic income), or the Oshkosh/Winnebago County Housing Authority believes that past income is the best available indicator of expected future income, the Oshkosh/Winnebago County Housing Authority may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

Annual income includes, but is not limited to, the amounts specified in the federal regulations currently found in 24 CFR 5.609:

- A. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- B. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is a reimbursement of cash or assets invested in the operation by the family.

- C. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD guidelines for Public Housing or Multi-Family Housing (rules differ). Income that could have been derived from assets worth more than \$1000 that were disposed of for less than fair market value within the past two years will be counted as income. Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value. 24 CFR 5.603
- D. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)
- E. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
- F. Welfare assistance
1. Welfare assistance payments
 - a. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program, also known in the state of Wisconsin as W2, are included in annual income only to the extent such payments:
 - i. Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
 - ii. Are not otherwise excluded under paragraph Section 11.2 of this Policy.
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- b. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income consists of:
 - i. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - ii. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this requirement is the amount resulting from one application of the percentage.

2. Imputed welfare income

- a. A family's annual income includes the amount of imputed welfare income (because of specified welfare benefits reductions resulting from either welfare fraud or the failure to comply with economic self-sufficiency requirements, as specified in notice to the Oshkosh/Winnebago County Housing Authority by the welfare agency) plus the total amount of other annual income.
- b. At the request of the Oshkosh/Winnebago County Housing Authority, the welfare agency will inform the Oshkosh/Winnebago County Housing Authority in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the Oshkosh/Winnebago County Housing Authority of any subsequent changes in the term or amount of such specified welfare benefit reduction. The Oshkosh/Winnebago County Housing Authority will use this information to determine the amount of imputed welfare income for a family.
- c. A family's annual income includes imputed welfare income in family annual income, as determined at an interim or regular reexamination of family income and composition during the term of the welfare benefits reduction (as specified in information provided to the Oshkosh/Winnebago County Housing Authority by the welfare agency).

- d. The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.
- e. The Oshkosh/Winnebago County Housing Authority will not include imputed welfare income in annual income if the family was not an assisted resident at the time of the sanction.
- f. If a resident is not satisfied that the Oshkosh/Winnebago County Housing Authority has calculated the amount of imputed welfare income in accordance with HUD requirements, and if the Oshkosh/Winnebago County Housing Authority denies the family's request to modify such amount, then the Oshkosh/Winnebago County Housing Authority shall give the resident written notice of such denial, with a brief explanation of the basis for the Oshkosh/Winnebago County Housing Authority's determination of the amount of imputed welfare income. The Oshkosh/Winnebago County Housing Authority's notice shall also state that if the resident does not agree with the determination, the resident may grieve the decision in accordance with our grievance policy. The resident is not required to pay an escrow deposit for the portion of the resident's rent attributable to the imputed welfare income in order to obtain a grievance hearing.

3. Relations with welfare agencies

- a. The Oshkosh/Winnebago County Housing Authority will ask welfare agencies to inform it of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the Oshkosh/Winnebago County Housing Authority written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.
- b. The Oshkosh/Winnebago County Housing Authority is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency and specified in the notice by the welfare agency to the housing

authority. However, the Oshkosh/Winnebago County Housing Authority is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, or for providing the opportunity for review or hearing on such welfare agency determinations.

- c. Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The Oshkosh/Winnebago County Housing Authority shall rely on the welfare agency notice to the Oshkosh/Winnebago County Housing Authority of the welfare agency's determination of a specified welfare benefits reduction.

- G. Periodic and determinable allowances, such as alimony, child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.

Any contribution or gift received every 2 months or more frequently will be considered a "regular" contribution or gift, unless the amount is less than \$200.00 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See Chapter 12 on "Verification Procedures," for further definition.)

If the family's expenses exceed its known income, the PHA will question the family about contributions and gifts.

If the amount of child support or alimony received is less than the amount awarded by the court, the PHA must use the amount awarded by the court unless the family can verify that they are not receiving the full amount. For Multi-Family and Tax Credit properties, the family must prove they are attempting to obtain the full court ordered amount in order for the reduced amount to be used.

- H. All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.)

11.2 ANNUAL INCOME

Annual income does not include the following amounts specified in the federal regulations currently found in 24 CFR 5.609:

- A. Income from employment of children (including foster children) under the age of 18 years;

- B. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) or payments made under Kin-GAP or similar guardianship care programs for children leaving the juvenile court system;
- C. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses;
- D. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- E. Income of a live-in aide;
- F. Public Housing - The full amount of student financial assistance paid directly to the student or to the educational institution unless it is an athletic scholarship that includes assistance available for housing costs and that portion is included in income;

Multi-Family – The amount of financial assistance in excess of tuition is included in annual income for all students applying for or receiving section 8 assistance, **except** for students who are living with their parents who are applying for or receiving section 8 or if the student is over the age of 23 with dependent children.

- G. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- H. The amounts received from the following programs:
 - 1. Amounts received under training programs funded by HUD;
 - 2. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - 3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and that are made solely to allow participation in a specific program;
 - 4. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such

services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the Oshkosh/Winnebago County Housing Authority governing board. No resident may receive more than one such stipend during the same period of time;

5. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program;
6. Temporary, nonrecurring or sporadic income (including gifts);
7. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
8. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
9. Adoption assistance payments in excess of \$480 per adopted child;
10. Mandatory Earned Income Disallowance (EID) for public housing only. (24 CFR 960.255)

The incremental earnings due to employment during a cumulative 12-month period following date of the initial hire shall be excluded. This exclusion is only available to the following families:

- a. Families whose income increases as a result of employment of a family member who was previously unemployed for one or more years.
- b. Families whose income increases during the participation of a family member in any economic self-sufficiency or other job training program.
- c. Families who are or were, within 6 months, assisted under a State TANF or Welfare-to-Work program.

During the second cumulative 12-month period after the date of initial hire, 50% of the increased income shall be excluded from income.

The disallowance of increased income of an individual family member is limited to a lifetime 48-month period. It only applies for 12 months of the 100% exclusion and 12 months of the 50% exclusion.

(While HUD regulations allow for the housing authority to offer an escrow account in lieu of having a portion of their income excluded under this paragraph, it is the policy of this housing authority to provide the exclusion in all cases.)

11. Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
12. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
13. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
14. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. These exclusions include:
 - a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
 - b. Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(f)(1), 5058);
 - c. Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
 - d. Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
 - e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
 - f. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6);

- g. The first \$2000 of per capita shares received from judgment funds awarded by the Indian National Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;
- h. Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under Federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended);
- i. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(g));
- j. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.);
- k. Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25 U.S.C. 1728);
- l. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- m. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221 (d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));
- n. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

- o. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- p. Any allowance paid under the provisions of 38 U.S.C. 1883(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);
- q. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602(c));
- r. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a) (2)).
- s. Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- t. Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- u. Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4));
- v. Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 *et seq.*) and administered by the Office of Native American Programs;
- w. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F. Supp. 2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from

the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);

- x. Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
- y. Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
- z. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

The Oshkosh/Winnebago County Housing Authority will not provide exclusions from income in addition to those already provided for by HUD.

11.3 DEDUCTIONS FROM ANNUAL INCOME (24CFR 5.611 & 5.617)

The following deductions will be made from annual income:

- A. \$480 for each dependent;
- B. \$400 for any elderly family or disabled family;
- C. The sum of the following, to the extent the sum exceeds three percent of annual income:
 - 1. Unreimbursed medical expenses of any elderly family or disabled family including any fee paid by the participant for the Medicare Prescription Drug Program; and
 - 2. When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide. Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts, and as long as a knowledgeable medical professional provides written documentation that the medicines are necessary. Acupressure, acupuncture and related herbal medicines, and chiropractic services will be considered allowable medical expenses.

3. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus.
- D. Reasonable childcare expenses for children 12 and younger necessary to enable a member of the family to be employed or to further his or her education. This deduction shall not exceed the amount of employment income that is included in annual income. Allowability of deductions for child care expenses is based on the following guidelines (24CFR 5.603):

Child care to work: The maximum child care expense allowed must be less than the amount earned by the person enabled to work. The number of hours claimed for child care may not exceed the number of hours the family member is working (including one hour travel time to and from work).

Child care for school: The number of hours claimed for child care may not exceed the number of hours the family member is attending school (including one hour travel time to and from school).

11.4 RECEIPT OF A LETTER OR NOTICE FROM HUD CONCERNING INCOME

- A. If a public housing resident receives a letter or notice from HUD concerning the amount or verification of family income, the letter shall be brought to the Property Manager for income verification within thirty (30) calendar days of receipt by the resident.
- B. The Property Manager shall reconcile any difference between the amount reported by the resident and the amount listed in the HUD communication. This shall be done as promptly as possible.
- C. After the reconciliation is complete, the Oshkosh/Winnebago County Housing Authority shall, if appropriate, adjust the resident's rent beginning at the start of the next month. If the reconciliation is completed during the final five (5) calendar days of the month, the new rent shall take effect on the first day of the second month following the end of the current month. In addition, if the resident had not previously reported the proper income, the Oshkosh/Winnebago County Housing Authority shall do one of the following:
 1. Immediately collect the back rent due to the agency;

2. Establish a repayment plan for the resident to pay the sum due to the agency (See Chapter 20.1, E; Repayment Agreements);
3. Terminate the lease and evict for failure to report income; or
4. Terminate the lease, evict for failure to report income, and collect the back rent due to the agency.

11.5 COOPERATING WITH WELFARE AGENCIES

The Oshkosh/Winnebago County Housing Authority will make its best efforts to enter into cooperation agreements with local welfare agencies under which the welfare agencies will agree:

- A. To target assistance, benefits and services to families receiving assistance in the public housing and Section 8 tenant-based assistance program to achieve self-sufficiency; and
- B. To provide written verification to the Oshkosh/Winnebago County Housing Authority concerning welfare benefits for families applying for or receiving assistance in our housing assistance programs.

11.6 COOPERATING WITH LAW ENFORCEMENT AGENCIES

The Oshkosh/Winnebago County Housing Authority will comply, on a case-by-case basis, with information requests from Federal, State or local law enforcement officers regarding possible fugitive felons and/or a parole or probation violators. The Oshkosh/Winnebago County Housing Authority will supply upon legitimate request (1) the current address, (2) Social Security number and (3) photograph (if available) of any recipient of assistance.

The Federal, State or local enforcement officer must submit a request that is (1) written, (2) on law enforcement agency letterhead, and (3) is signed by the requesting officer and his or her immediate supervisor. The request for information must provide the name of the fugitive felon and/or parole or probation violator being sought, and may include other personal information used for identification. The request should also comply with the following requirements:

- A. The law enforcement agency shall notify Oshkosh/Winnebago County Housing Authority that the fugitive felon and/or parole or probation violator (i) is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor; or (ii) is violating a condition of probation or parole imposed under Federal or State

law; or (iii) has information that is necessary for the officer to conduct his/her official duties;

- B. The location or apprehension of the recipient is within the Oshkosh/Winnebago County Housing Authority's official duties; and,
- C. The request is made in the proper exercise of the law enforcement agency's official duties.

12.0 VERIFICATION (24CFR 5.216, 5.617, 5.659 & 960.259)

The Oshkosh/Winnebago County Housing Authority will verify information related to waiting list preferences, eligibility, admission, and level of benefits prior to admission. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations; full-time student status of family members 18 years of age and older; Social Security numbers; and citizenship/eligible non-citizen status. Age and relationship will only be verified in those instances where needed to make a determination of level of assistance. The PHA will ensure that proper authorization for release of information is always obtained from the family before making verification inquiries.

12.1 RELEASE OF INFORMATION

The family will be required to sign specific authorization forms when information is needed that is not covered by the Public Housing HUD form 9886, Authorization for Release of Information or the Multi-Family HUD form 9887, Applicants/Tenants Consent to the Release of Information.

Each member requested to consent to the release of information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of tenancy because it is a family obligation under tenancy to supply any information requested by the PHA or HUD.

12.2 ACCEPTABLE METHODS OF VERIFICATION

Age, relationship, U.S. citizenship, and Social Security numbers will generally be verified with documentation provided by the family. For citizenship, the family's certification will be accepted. (Or, for citizenship, documentation such as listed below will be required.) Verification of these items will include photocopies of the Social Security cards and other documents presented by the family, the INS SAVE approval code, and forms signed by the family.

Other information will be verified by the following verification methods acceptable to HUD, in the order of preference indicated:

1. Up-front Income Verifications (UIV)

UIV is the verification of income through an independent source that systematically maintains income information in computerized form for a large number of individuals.

Current UIV resources include the following:

- a. **Enterprise Income Verification (EIV)** – The EIV System is a web-based application, which provides PHAs with employment, wage, unemployment compensation and social security benefit information of tenants who participate in various housing programs. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN) reported on the form HUD-50058 or HUD-50059. Use of the EIV system in its entirety is mandatory for all annual and interim re-examinations. The Oshkosh/Winnebago County Housing Authority will monitor the following EIV reports on a monthly basis – (1) Deceased Tenants Report, (2) Identity Verification Report, and the (3) Immigration Report. In addition, it will monitor on a quarterly basis the following EIV reports – (1) Income Discrepancy Report, (2) Multiple Subsidy Report, and (3) the New Hires Report. Whether or not an admission is homeless will be noted in the 50058. **EIV cannot be used for qualifying units at Low Income Housing Tax Credit (LIHTC) properties.**
- b. **State Wage Information Collection Agencies (SWICAs)**
- c. **State systems for the Temporary Assistance for Needy Families (TANF) program**
- d. **Credit Bureau Information (CBA) credit reports**
- e. **Internal Revenue Service (IRS) Letter 1722**
- f. **Private sector databases (e.g. The Work Number)**

The Oshkosh/Winnebago County Housing Authority will use additional UIV resources as they become available. This will be done before, during and/or after examinations and/or re-examinations of household income as appropriate.

It is important to note that UIV data will only be used to verify a participant's eligibility for participation in a rental assistance program and to determine the level of assistance the participant is entitled to receive and only by properly trained persons whose duties require access to this information. Any other use,

unless approved by the HUD Headquarters UIV Security System Administrator, is specifically prohibited and will not occur.

No adverse action can be taken against a participant until the Oshkosh/Winnebago County Housing Authority has independently verified the UIV information and the participant has been granted an opportunity to contest any adverse findings through the established grievance procedure. The consequences of adverse findings may include the Oshkosh/Winnebago County Housing Authority requiring the immediate payment of any over-subsidy, the entering into a repayment agreement, eviction, criminal prosecution, or any other appropriate remedy.

Furthermore, the information the Oshkosh/Winnebago County Housing Authority derives from the UIV system will be protected to ensure that it is utilized solely for official purposes and not disclosed in any way that would violate the privacy of the affected individuals.

The EIV Income Report must remain in the tenant file for the duration of tenancy and no longer than three years from the end of participation (EOP) date. The Oshkosh/Winnebago County Housing Authority is required to maintain at a minimum, the last three years of the form HUD-50058 or HUD-50059, and supporting documentation for all annual and interim reexaminations of family income. All records are to be maintained for a period of at least three years from the effective date of the action. Once the data has served its purpose, it shall be destroyed by either burning or shredding the data.

2. Third-Party Written Verifications

An original or authentic document generated by a third-party source dated either within the 60-day period preceding the reexamination or the Oshkosh/Winnebago County Housing Authority request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. It is HUD's position that such tenant-provided documents are written third-party verification since these documents originated from a third-party source. The Oshkosh/Winnebago County Housing Authority may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include, but are not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents will be used for income and rent determinations.

The Oshkosh/Winnebago County Housing Authority will obtain six (6) current and consecutive pay stubs for determining annual income from wages. For new income sources or when six (6) current and consecutive pay stubs are not available, the Oshkosh/Winnebago County Housing Authority will project income based on the information from a traditional written third-party verification form or the best available information.

Note: Documents older than 60 calendar days (from the Oshkosh/Winnebago County Housing Authority interview/determination or request date) are acceptable for confirming effective dates of income.

Third-party written verifications may also be used to supplement Up-front Income Verifications. They will be utilized when there is a discrepancy of \$200 a month or more and the participant disputes the UIV results.

Note: Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant.

3. Written Third-Party Verification Form

Also known as traditional third-party verification. A standardized form to collect information from a third-party source is distributed by the Oshkosh/Winnebago County Housing Authority. The form is completed by the third-party by hand (in writing or typeset) when sent the form by the Oshkosh/Winnebago County Housing Authority.

HUD recognizes that third-party verification request forms sent to third-party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third-party source to provide false information; or the tenant intercepts the form and provides false information.

HUD requires the Oshkosh/Winnebago County Housing Authority to rely on documents that originate from a third-party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third-party verification request form. The use of acceptable tenant-provided documents, which originate from a third-party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

The Oshkosh/Winnebago County Housing Authority will allow ten (10) calendar days for the return of third-party written verifications prior to continuing on to the next type of verification.

4. Third-Party Oral Verifications

This type of verification includes direct contact with the source, in person or by telephone. When this method is used, staff members will be required to document in writing with whom they spoke, the date of the conversation, the telephone number, and the facts obtained.

The Oshkosh/Winnebago County Housing Authority will allow five (5) calendar days for the return of third-party oral verifications prior to continuing on to the next type of verification.

5. Review of Documents

When UIV, written and oral third-party verifications are not available within the ten (10) calendar day period allowed in paragraph 3 and five (5) calendar day period allowed in paragraph 4 above, the Housing Authority will use the information received by the family, provided that the documents provide complete information. Photocopies of the documents, excluding government checks, provided by the family will be maintained in the file. In cases in which documents are viewed and cannot be photocopied, staff reviewing the documents will complete a written statement as to the contents of the document(s).

6. Self-Certification and Self-Declaration

When UIV, written and oral third-party verifications are not available within the ten (10) calendar day period allowed in paragraph 3 and five (5) calendar day period allowed in paragraph 4 above, and hand-carried verification cannot be obtained, the Housing Authority will accept a statement detailing information needed, signed by the head, spouse, co-head, or other adult family member.

The Housing Authority will accept faxed documents and photo copies. Verification forms and reports received will be contained in the applicant/tenant file. Oral third-party documentation will include the same information as if the documentation had been written, i.e. name, date of contact, amount received, etc.

When any verification method other than Up-front Income Verification is utilized, the Oshkosh/Winnebago County Housing Authority will document the reason for the choice of the verification methodology in the applicant/resident's file.

The following chart comes from PIH Notice 2010-19.

Level	Verification Technique	Ranking
6	Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	Highest (Mandatory)
5	Up-front Income Verification (UIV) using non-HUD system	Highest (Optional)
4	Written Third-Party Verification	High (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when participant disputes EIV-reported employment and income information <u>and</u> is unable to provide acceptable documentation to support dispute)
3	Written Third-Party Verification Form	Medium-Low (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or participant is unable to provide acceptable documentation)
2	Oral Third-Party Verification	Low (Mandatory if written third-party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain any type of third-party verification)

12.3 TYPES OF VERIFICATION

The chart below outlines the factors that may be verified and gives common examples of the verification that will be sought. To obtain written third-party verification, the Oshkosh/Winnebago County Housing Authority will send a request form to the source along with a release form signed by the applicant/tenant via first class mail or fax. Documentation and letters from the source are acceptable provided they contain all

necessary information. Families claiming to have no income must complete a zero income form.

Verification Requirements for Individual Items		
Item to Be Verified	3 rd party verification	Hand-carried verification
General Eligibility Items		
Social Security Number	Not Allowed	Original Social Security Card, an appropriate government letter showing the number or other HUD-allowed method
Adult Status of the Head of Household		Valid driver's license, identification card issued by a government agency, or a birth certificate.
Citizenship	N/A	Signed certification, voter's registration card, birth certificate, etc.
Eligible immigration status	INS SAVE confirmation #	INS card
Disability	Letter/form from medical professional, SSI, etc.	Proof of SSI or Social Security disability payments
Full time student status (if >18)	Letter/documentation from school	For high school and/or college students, any document evidencing enrollment
Need for a live-in aide	Letter/form from doctor or other professional knowledgeable of condition	N/A
Childcare costs	Letter from care provider	Bills and receipts
Disability assistance expenses	Letters/form from suppliers, care givers, etc.	Bills and records of payment

Verification Requirements for Individual Items		
Item to Be Verified	3 rd party verification	Hand-carried verification
Medical expenses	Letters/documentation from providers, prescription record from pharmacy, medical professional's letter stating assistance or a companion animal is needed	Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls
Medicare Prescription Drug Coverage		A card issued by the private prescription drug plan with the words Medicare Rx on it.
Value of and Income from Assets		
Savings, checking accounts	Letter/form from institution	Passbook, most current statements
CDS, bonds, etc.	Letter/form from institution	Tax return, information brochure from institution, the CD, the bond
Stocks	Letter/form from broker or holding company	Stock or most current statement, price in newspaper or through Internet
Real property	Letter/documentation from tax office, assessment, etc.	Property tax statement (for current value), assessment, records or income and expenses, tax return
Personal property held as an investment	Assessment, bluebook, etc.	Receipt for purchase, other evidence of worth
Cash value of whole life insurance policies	Letter/documentation from insurance company	Current statement

Verification Requirements for Individual Items		
Item to Be Verified	3 rd party verification	Hand-carried verification
Assets disposed of for less than fair market value	N/A	Original receipt and receipt at disposition, other evidence of worth
Income		
Earned income	Letter/form from employer	Multiple pay stubs
Self-employed	N/A	Tax return from prior year, books of accounts
Regular gifts and contributions	Letter from source, letter from organization receiving gift (i.e., if grandmother pays day care provider, the day care provider could so state)	Bank deposits, other similar evidence
Alimony/child support	Court order, letter from source, letter from Human Services	Record of deposits, divorce decree
Social Security Administration		Letter from Social Security no more than 60 calendar days old as verified by HUD computer systems
Periodic payments (i.e., welfare, pensions, workers compensation, unemployment)	Letter or electronic reports from the source	Award letter, letter announcing change in amount of future payments
Training program participation	Letter/documentation from program provider indicating <ul style="list-style-type: none"> - whether enrolled or completed - whether training is HUD-funded - whether Federal, State, local govt., or local program - whether it is employment training 	N/A

Verification Requirements for Individual Items		
Item to Be Verified	3 rd party verification	Hand-carried verification
	<ul style="list-style-type: none"> - whether it has clearly defined goals and objectives - whether program has supportive services - whether payments are for out-of-pocket expenses incurred in order to participate in a program - date of first job after program completion 	Evidence of job start

12.4 VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS (24 CFR 5.508)

The citizenship/eligible non-citizen status of each family member regardless of age must be determined.

Prior to being admitted, or at the first reexamination, all citizens and nationals will be required to sign a declaration under penalty of perjury. They may be required to show proof of their status by such means as a birth certificate, military ID, or military DD 214 Form.

Prior to being admitted or at the first reexamination, all eligible non-citizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury. They will also be required to show proof of age.

Prior to being admitted or at the first reexamination, all eligible non-citizens must sign a declaration of their status and a verification consent form and provide their original INS documentation. The Oshkosh/Winnebago County Housing Authority will make a copy of the individual's INS documentation and place the copy in the file. The Oshkosh/Winnebago County Housing Authority will also verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, the Oshkosh/Winnebago County Housing Authority will mail information to the INS in order that a manual check can be made of INS records.

Family members who do not claim to be citizens, nationals, or eligible non-citizens must be listed on a statement of non-eligible members and the list must be signed by the head of the household.

Non-citizen students on student visas, though in the country legally, are not eligible to be admitted to public housing. If they are members of families that include citizens, the rent must be pro-rated.

Any family member who does not choose to declare their status must be listed on the statement of non-eligible members.

If no family member is determined to be eligible under this section, the family's eligibility will be denied.

The family's assistance will not be denied, delayed, reduced, or terminated because of a delay in the process of determining eligible status under this section, except to the extent that the delay is caused by the family.

If the Oshkosh/Winnebago County Housing Authority determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in their public housing unit, the family will be evicted. Such family will not be eligible to be readmitted to public housing for a period of 5 years from the date of eviction or termination.

12.5 VERIFICATION OF SOCIAL SECURITY NUMBERS (24CFR 5.216)

Prior to admission, every family member regardless of age must provide the Oshkosh/Winnebago County Housing Authority with a complete and accurate Social Security Number unless they do not contend eligible immigration status. New family members must provide this verification prior to being added to the lease. If the new family member is under the age of six and has not been assigned a Social Security Number, the family shall have ninety (90) calendar days after starting to receive the assistance to provide a complete and accurate Social Security Number. The Oshkosh/Winnebago County Housing Authority may grant one ninety (90) day extension for newly-added family members under the age of six if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and was outside the control of the person.

If a person is already a program participant and has not disclosed his or her Social Security Number, it must be disclosed at the next re-examination or re-certification. Participants aged 62 or older as of January 31, 2010 whose initial eligibility determination was begun before January 31, 2010 are exempt from the required disclosure of their Social Security Number. This exemption continues even if the individual moves to a new assisted unit.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, the Oshkosh/Winnebago County Housing Authority will accept an original document issued by a federal or state government agency, which contains the

name of the individual and the Social Security Number of the individual, along with other identifying information of the individual or such other evidence of the Social Security Number as HUD may prescribe in administrative instructions.

If a member of an applicant family indicates they have a Social Security Number, but cannot readily verify it, the family cannot be assisted until verification is provided.

If an individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated. The Oshkosh/Winnebago County Housing Authority may grant one ninety (90) day extension from termination if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and there is a reasonable likelihood that the person will be able to disclose a Social Security Number by the deadline.

Refugees not able to provide a social security card due to no fault of their own, are verified through SAVE and an Alt ID is issued. Their Social Security card must be submitted to the Housing Authority by their first annual certification.

12.6 TIMING OF VERIFICATION

Verification information must be dated within ninety (90) calendar days of certification or reexamination. If the verification is older than this, the source will be contacted and asked to provide information regarding any changes.

When an interim reexamination is conducted, the Housing Authority will not verify and update income and asset sources not reported to have changed. It is the tenant's responsibility to notify the Housing Authority, in writing, of any changes.

12.7 FREQUENCY OF OBTAINING VERIFICATION

Household composition will be verified annually. The frequency that household income will be verified depends on the type of rent method chosen by the family.

For each family member, citizenship/eligible non-citizen status will be verified only once unless the family member is an eligible immigrant in a transitional stage of admission. In this situation, their status must be updated until they are admitted for permanent residency. This verification will be obtained prior to admission. If the status of any family member was not determined prior to admission, verification of their status will be obtained at the next regular reexamination. Prior to a new member joining the family, their citizenship/eligible non-citizen status will be verified.

For each family member, verification of Social Security number will be obtained only once. This verification will be accomplished prior to admission. When a family member

who did not have a Social Security number at admission receives a Social Security number, that number will be verified at the next regular reexamination (24 CFR 5.5).

The Multi-Family Programs require families to submit Social Security card(s) within sixty (60) days of their intake interview. Meanwhile, the family will stay on the waiting list. After the sixty (60) days, families not submitting their Social Security card(s) are ineligible and removed from the waiting list. At the Housing Authority's discretion, a sixty (60) day extension may be issued to applicants 62 years of age or older.

12.8 SPECIAL VERIFICATION FOR ADULT STUDENTS
(THIS SECTION IS DIFFERENT FOR PUBLIC HOUSING, MULTI-FAMILY AND TAX CREDIT PROGRAMS)

PUBLIC HOUSING PROGRAMS

In addition to other verification procedures, student head of households must provide a written signed certification that the student does or does not receive any financial support from his or her parents or guardians. If support is received, the certification must state the amount of the anticipated support. The Oshkosh/Winnebago County Housing Authority shall verify using normal third party verification procedures that amount by communicating directly with the supporting person(s).

MULTI-FAMILY PROGRAMS

A. Eligibility of Students for Section 8 Assistance

1. Owners must determine a student's eligibility for Section 8 assistance at move-in, annual recertification, initial certification (when an in-place tenant begins receiving Section 8), and at the time of an interim recertification if one of the family composition changes reported is that a household member is enrolled as a student.
2. Section 8 assistance shall not be provided to any individual who:
 - a. Is enrolled as either a part-time or full-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential; *and*
 - b. Is under the age of 24; *and*
 - c. Is not married; *and*
 - d. Is not a veteran of the United States Military; *and*
 - e. Does not have a dependent child; *and*

- f. Is not a person with disabilities, as such term is defined in 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and was not receiving section 8 assistance as of November 30, 2005, **and**
- g. Is not living with his or her parents who are receiving Section 8 assistance; and
- h. Is not individually eligible to receive Section 8 assistance **or** has parents (the parents individually or jointly) who are not income eligible to receive Section 8 assistance. (See paragraph 3-33 for verifying parent's eligibility.)

***NOTE:** Unless the student can demonstrate his or her independence from parents, the student must be eligible to receive Section 8 assistance **and** the parents (individually or jointly) must be eligible to receive Section 8 assistance in order for the tenant to receive Section 8 assistance.*

3. For a student to be eligible independent of his or her parents (where the income of the parents is not relevant), the student must demonstrate the absence of, or his or her independence from, parents. While owners may use additional criteria for determining the student's independence from parents, owners must use, and the student must meet, at a minimum **all** of the following criteria to be eligible for Section 8 assistance. The student must:

- a. Be of legal contract age under state law;
- b. Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, **or**, meet the U.S. Department of Education's definition of an independent student. (See the Glossary for definition of Independent Student);
- c. Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations; and
- d. Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.

4. Any financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts received for tuition is included in annual income, except if the student is over the age of 23 with dependent children or if the student is living with his or her parents who are receiving Section 8 assistance. (See Glossary for expanded definition of Student Financial Assistance.)

5. If an ineligible student is a member of an existing household receiving Section 8 assistance, the assistance for the household will not be prorated but will be terminated in accordance with the guidance in paragraph 8-6 A.

NOTE: An owner cannot evict or require an ineligible student to move from a unit as long as the student is in compliance with the terms of the lease.

B. Eligibility of Students for Section 236 Assistance (Cumberland Court Apartments)

1. Owners must determine a student's eligibility for assistance at move-in, initial or annual recertification, and at the time of an interim recertification if one of the changes reported is that a household member is enrolled as a student, at an institution of higher education.
2. The student must meet **all** of the following criteria to be eligible. The student must:
 - a. Be of legal contract age under state law;
 - b. Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, **or**
 - c. Meet the U.S. Department of Education's definition of an independent student.
 - d. Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations; and
 - e. Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.
3. The full amount of financial assistance paid directly to the student or to the educational institution and amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs, are excluded from annual income for the programs listed in 1, above (see paragraph 5-6 D and Exhibit 5-1.)

TAX CREDIT PROGRAM

A full-time student is any individual who is, has been, or will be attending classes at an educational institution or is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization or of a state or political subdivision of a state during at least five months of the year in which the tenant application is submitted. The five calendar months need not be consecutive.

In general, an educational organization (institution) is one that normally maintains a regular faculty and curriculum, and normally has an enrolled body of pupil or students in

attendance at the place where its educational activities are regularly carried on. The term “educational organization” includes elementary schools, junior and senior high schools, colleges, universities, and technical, trade, and mechanical schools. The determination of student status full or part-time is based on the criteria used by the educational institution the student is attending.

If a single applicant/occupant or all the applicants/occupants of a unit are full-time students, that unit **will not** be considered a qualifying tax credit unit unless one of the following criteria is met:

- a. A student is married and *entitled* to file a joint tax return;
- b. A student is receiving assistance under Title IV of the Social Security Act;
- c. A student is enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State or local laws; or
- d. A student is a single parent with children and such parent and children are not dependents (as defined in IRC section 152) of another individual (other than a parent of such children).
- e. A student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act.

An applicant claiming any of the exceptions must be able to provide documentation to prove that status.

If a previously qualified low-income household changes due to any tenant becoming a full-time student, the household must meet one of the criteria described above in order to remain eligible under the Program rules. If none of the criteria are met, the unit will be considered a non-qualifying (market) household.

12.9 DISCREPANCIES IN VERIFIED INFORMATION

An EIV Income Report shall be pulled from the system before annual or interim reexamination is conducted for any family and compared with family-reported information. If the EIV report reveals an income source that was not reported by the tenant or a substantial difference (defined as \$2400 or more annually) in the reported income information, the Oshkosh/Winnebago County Housing Authority will:

- A. Discuss the income discrepancy with the tenant; and
- B. Request the tenant to provide any documentation to confirm or dispute the

unreported or underreported income and/ or income sources; and

- C. In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the Oshkosh/Winnebago County Housing Authority will request from the third-party source, any information necessary to resolve the income discrepancy; and
- D. If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively*; and
- E. Take any other appropriate action.

*The Oshkosh/Winnebago County Housing Authority will determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

The tenant will be provided an opportunity to contest the Oshkosh/Winnebago County Housing Authority's determination of tenant rent underpayment. Tenants will be promptly notified in writing of any adverse findings made on the basis of the information verified through the aforementioned income discrepancy resolution process. The tenant may contest the findings in accordance with established grievance procedures. The Oshkosh/Winnebago County Housing Authority will not terminate, deny, suspend, or reduce the family's assistance until the expiration of any notice or grievance period.

When there is an unsubstantial or no disparity between tenant-reported and EIV-reported income information, the Oshkosh/Winnebago County Housing Authority will obtain from the tenant, any necessary documentation to complete the income determination process. As noted previously, the Oshkosh/Winnebago County Housing Authority may reject any tenant-provided documentation, if the Authority deems the documentation unacceptable. Documentation provided by the tenant will only be rejected for only the following reasons:

1. The document is not an original; or
2. The original document has been altered, mutilated, or is not legible; or
3. The document appears to be a forged document (i.e. does not appear to be authentic).

The Oshkosh/Winnebago County Housing Authority will explain to the tenant, the reason(s) the submitted documents are not acceptable and request the tenant to provide additional documentation. If at any time, the tenant is unable to provide acceptable documentation that the Oshkosh/Winnebago County Housing Authority deems necessary to complete the income determination process, the Authority will submit a traditional

third-party verification form to the third-party source for completion and submission to the Oshkosh/Winnebago County Housing Authority.

If the third-party source does not respond to the Oshkosh/Winnebago County Housing Authority's request for information, the Authority is required to document the tenant file of its attempt to obtain third-party verification and that no response to the third-party verification request was received.

The Oshkosh/Winnebago County Housing Authority will then pursue lower level verifications in accordance with the verification hierarchy.

13.0 DETERMINATION OF TOTAL TENANT PAYMENT AND TENANT RENT (24 CFR 5.628)

The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the regulations.

This Chapter defines the allowable deductions from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subpart F and further instructions set forth in HUD Notices, Memoranda and Addenda. The formula for the calculation of TTP is specific and not subject to interpretation. The PHA's policies in this Chapter address those areas which allow the PHA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

13.1 DEFINITION OF TEMPORARILY/PERMINENTLY ABSENT

The PHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the PHA must count the income of the spouse or the head of the household if that person is temporarily absent.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The PHA will evaluate absences from the unit in accordance with this policy.

A. Absence of Entire Family

The following regulations address situations where the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out or abandoned the unit, the PHA will terminate tenancy in accordance with the appropriate lease termination procedures contained in this Policy.

"Absence" means that no family member is residing in the unit.

Families are required to notify the PHA before they move out of a unit in accordance with the lease and to give the PHA information about any family absence from the unit.

Families must notify the PHA if they are going to be absent from the unit for more than 30 consecutive days.

If the entire family is absent from the unit, but has not moved out or abandoned the unit, for more than 180 consecutive days the unit will be considered to be vacated and the lease terminated.

The PHA may grant the family an extension to the 180 day limit for medical reasons as determined by a qualified medical source or for other circumstances at the sole discretion of the PHA.

In order to determine if the family is absent from the unit, the PHA may conduct, but is not limited to, the following investigation:

- Conduct home visit
- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service

B. Absence of Any Member

Any member of the household will be considered permanently absent if they are away from the unit for 3 consecutive months or 180 days in a 12 month period except as otherwise provided in this Chapter.

C. Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, etc., the PHA will seek advice from a qualified medical source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, the PHA will terminate tenancy in accordance with the appropriate lease termination procedures contained in this policy.

D. Absence due to Incarceration

If the sole member is incarcerated for more than 60 consecutive days, they will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if they are incarcerated for 60 consecutive days.

E. Foster Care and Absences of Children

If the family includes a child or children temporarily absent from the home due to placement in foster care, the PHA will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than 12 months from the date of removal of the child(ren), the unit size will be reduced. If all children are removed from the home permanently, the unit size will be reduced in accordance with the PHA's occupancy guidelines.

F. Absence of Adults

If no adult member remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the PHA will treat that care provider as a visitor for the first 30 days.

During the initial 30 day period the PHA will determine if the care provider qualifies under the Tenant Suitability criteria.

If by the end of the initial 30 day period, court-awarded custody or legal guardianship has been awarded to the care provider, and the care provider qualifies under Tenant Suitability criteria, the lease will be transferred to the care provider.

The PHA will transfer the lease to the care provider, in the absence of a court order, if the care provider qualifies under the Tenant Suitability criteria and has been in the unit for more than 90 days and it is reasonable to expect that custody will be granted.

The PHA shall consider the **care provider** an added family member after the initial 30 days and complete the Tenant Suitability screening to determine eligibility. If the care provider is qualified their income shall be included in the calculation of Total Tenant Payment.

The family will be required to notify the PHA in writing within 10 calendar days when a family member moves out. The notice must contain a certification by the family as to whether the family member is temporarily or permanently absent with supporting verification documents.

Time extension will be granted as an accommodation upon request by a person with a disability.

G. Students

A family member who is a full time student who attends school away from the home or goes into the military will be treated in the following manner:

A family member (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent.

If the family decides that the member is temporarily absent, the member will be included on the lease and the member will be included for determination of unit size and total family income.

If the family decides that the member is permanently absent, the member will not be included on the lease, and the member will not be included for determination of unit size and total family income.

13.2 FAMILY CHOICE (PUBLIC HOUSING ONLY)

At admission and each year in preparation for their annual reexamination, each family is given the choice of having their rent determined under the income method or having their rent set at the flat rent amount.

- A. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they would otherwise undergo and complete required annual release of information and HUD authorization forms. Their family composition must still be reviewed annually.
- B. Families who opt for the flat rent may request to have a reexamination and return to the income based method at any time for any of the following reasons:
 - 1. The family's income has decreased.
 - 2. The family's circumstances have changed increasing their expenses for childcare, medical care, etc.

3. Other circumstances creating a hardship on the family such that the income method would be more financially feasible for the family.
- C. Families have only one choice per year except for financial hardship cases. In order for families to make informed choices about their rent options, the Oshkosh/Winnebago County will provide them with the following information whenever they have to make rent decisions:
1. The Oshkosh/Winnebago County Housing Authority's policies on switching types of rent in case of a financial hardship; and
 2. The dollar amount of tenant rent for the family under each option. If the family chose a flat rent for the previous year, the Oshkosh/Winnebago County Housing Authority will provide the amount of income-based rent for the subsequent year only in the year the Oshkosh/Winnebago County Housing Authority conducts an income reexamination or if the family specifically requests it and submits updated income information.

13.3 AVERAGING INCOME

When Annual Income cannot be anticipated for a full twelve months, the PHA may:

Average known sources of income that vary to compute an annual income.

Annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

Income from the previous year may be analyzed to determine the amount to anticipate when third-party or check-stub verification is not available.

If by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so that the housing payment will not change from month to month.

The method used depends on the regularity, source and type of income.

13.4 MINIMUM INCOME

There is no minimum income requirement. Families who report less than \$5000 income are required to complete a written certification every 30 days.

13.5 INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME

If a family member is permanently confined to a hospital or nursing home and there is a family member(s) left in the household, the PHA will calculate the income by using the following methodology and use the income figure which would result in a Total Tenant Payment by the family:

Exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member.

13.6 THE INCOME METHOD

The total tenant payment is equal to the highest of:

- A. 10% of the family's monthly gross income;
- B. 30% of the family's adjusted monthly income; or
- C. If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this provision is the amount resulting from one application of the percentage; or
- D. The minimum rent of \$50.

13.7 MINIMUM RENT (24 CFR 5.630(B))

The Oshkosh/Winnebago County Housing Authority has set the minimum rent at \$50. If the family requests a hardship exemption, however, the Oshkosh/Winnebago County Housing Authority will suspend the minimum rent beginning the month following the family's request until the Housing Authority can determine whether the hardship exists and whether the hardship is of a temporary or long-term nature. For the Multi-Family Programs, the TTP will not drop to zero unless both 30% AMI & 10% GMI all result in zero (4350.3 5-26(D)(3)(b)).

- A. A hardship exists in the following circumstances:
 - 1. When the family has lost eligibility for or is waiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non-citizen lawfully admitted for

permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;

2. When the family would be evicted because it is unable to pay the minimum rent;
 3. When the income of the family has decreased because of changed circumstances, including loss of employment; and
 4. When a death has occurred in the family.
- B. No hardship. If the Housing Authority determines there is no qualifying hardship, the minimum rent will be reinstated, including requiring back payment of minimum rent for the time of suspension.
- C. Temporary hardship. If the Housing Authority reasonably determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will be not be imposed for a period of 90 calendar days from the beginning of the suspension of the minimum rent. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. The Housing Authority will offer a repayment agreement in accordance with Section 20.1 of this policy for any rent not paid during the period of suspension. During the suspension period the Housing Authority will not evict the family for nonpayment of the amount of tenant rent owed for the suspension period.
- D. Long-term hardship. If the Housing Authority determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists.
- E. Appeals. The family may use the grievance procedure to appeal the Housing Authority's determination regarding the hardship. No escrow deposit will be required in order to access the grievance procedure.

13.8 THE FLAT RENT (PUBLIC HOUSING ONLY- 24 CFR 960.253(b))

The Oshkosh/Winnebago County Housing Authority has set a flat rent for each public housing unit. Per HUD mandate, in 2014, minimum flat rents will be set at no less than 80% of the Fair Market Rent (FMR) as established by HUD for the Housing Authority's area. Further adjustments will be made for tenant-paid utilities. In no event shall the flat rent be less than 80% of the local FMR established by HUD. Any increase caused by an increase of the flat rent required by HUD shall be limited to 35% of the existing flat rent per year unless state or local law requires a lesser increase.

In subsequent years, the Oshkosh/Winnebago County Housing Authority is required by HUD to conduct a market study based on the Rent Reasonableness (RR) methodology. In doing so, it will consider the size and type of the unit, as well as its age, condition, amenities, services, and neighborhood as compared to similar units in the private, unassisted rental market.

If the flat rent as determined by the Rent Reasonableness study is at least 80% of the FMR, the Housing Authority must set the flat rents at the amounts determined by the RR study, subject to utility adjustments. If the flat rent as determined by the RR study is less than 80% of FMR, the Housing Authority must set the flat rents at no less than 80% of the local FMR, subject to utility adjustments. Any phase-in related to the 35% cap increase will continue to apply.

Upon issuance of new FMRs by HUD, the Housing Authority must determine if the current flat rents are at least 80% of the new FMR, and update the flat rent amounts if necessary to meet the 80% requirement within a reasonable time, but no later than 90 days of HUD publishing new FMRs. The Oshkosh/Winnebago County Housing Authority will tie the timing of the required RR study to the annual issuance of FMRs to avoid possible duplication of flat rent adjustment.

Affected families will be given a 30-day notice of any rent change. Adjustments are applied at the end of the annual lease (for more information on flat rents, see Section 16.2).

The Oshkosh/Winnebago County Housing Authority will post the flat rents at each of the developments and at the central office. Flat rents are incorporated in this policy upon approval by the Board of Commissioners.

There is no utility allowance for families paying a flat rent because the Oshkosh/Winnebago County Housing Authority has already factored who pays for the utilities into the flat rent calculation.

13.9 RETROACTIVE CALCULATION METHODOLOGY

Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments (unemployment or welfare assistance) are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

1. The PHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.
2. The PHA will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the PHA.

At the PHA's option, the PHA may enter into a Repayment Agreement with the family.

The amount owed by the family is a collectible debt even if the family becomes unassisted.

13.10 CEILING RENT

The PHA does not utilize ceiling rents.

13.11 RENT FOR FAMILIES UNDER THE NONCITIZEN RULE (24 CFR 5.500)

A mixed family will receive full continuation of assistance if all of the following conditions are met:

- A. The family was receiving assistance on June 19, 1995;
- B. The family was granted continuation of assistance before November 29, 1996;
- C. The family's head or spouse has eligible immigration status; and
- D. The family does not include any person who does not have eligible status other than the head of household, the spouse of the head of household, any parent of the head or spouse, or any child (under the age of 18) of the head or spouse.

The family's assistance is prorated in the following manner:

- A. Determine the 95th percentile of gross rents (tenant rent plus utility allowance) for the Oshkosh/Winnebago County Housing Authority. The 95th percentile is called the maximum rent.
- B. Subtract the family's total tenant payment from the maximum rent. The resulting number is called the maximum subsidy.
- C. Divide the maximum subsidy by the number of family members and multiply the result times the number of eligible family members. This yields the prorated subsidy.
- D. Subtract the prorated subsidy from the maximum rent to find the prorated total tenant payment. From this amount subtract the full utility allowance to obtain the prorated tenant rent.

13.12 UTILITY ALLOWANCE

The Oshkosh/Winnebago County Housing Authority shall establish a utility allowance for all check-metered utilities and for all tenant-paid utilities. The allowance will be based on a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful environment. In setting the allowance, the Oshkosh/Winnebago County Housing Authority will review the actual consumption of tenant families as well as changes made or anticipated due to modernization (weatherization efforts, installation of energy-efficient appliances, etc.) Allowances will be evaluated at least annually as well as any time utility rate changes by 10% or more since the last revision to the allowances.

If the cost of utilities (excluding telephone) is not included in the Tenant Rent, a utility allowance will be deducted from the total tenant payment. The Utility allowance is intended to help defray the cost of utilities not included in the rent. The allowances are based on the monthly cost of reasonable consumption utilities in an energy conservative household, *not* on a family's actual consumption.

When the Utility Allowance exceeds the family's Total Tenant Payment, the PHA will provide a Utility Reimbursement Payment for the family each month. The check will be made out directly to the tenant unless the tenant owes the PHA for unpaid rent and/or other charges, or owes the Utility Company. In these cases the Utility Reimbursement will be issued to the PHA and/or the Utility Company. Charges shall not be due or collectable until 2 weeks after the notice was sent to the family (24 CFR 966.4(b)(2))

Residents in units where the PHA pays the utilities may be charged for excess utilities if additional appliances or equipment are used in the unit. This charge shall be applied as specified in the lease. [24CFR 966.4(b)(2)]

Revisions to the utility allowance shall become effective at each family's next annual reexamination.

Families with high utility costs are encouraged to contact the Oshkosh/Winnebago County Housing Authority for an energy analysis. The analysis may identify problems with the dwelling unit that once corrected will reduce energy costs. The analysis can also assist the family in identifying ways they can reduce their costs.

The following requirements apply to residents living in developments with resident-paid utilities or applicants being admitted to such developments:

- The PHA will complete regular third party verification with the utility company to determine if the resident has failed to pay their utility bill.
- If a resident or applicant is unable to get utilities connected because of a previous balance owed to the utility company, the resident/applicant will not be permitted to move into a unit with resident paid utilities. This may mean that a current resident cannot transfer to a scattered site or that an applicant cannot be admitted to a unit with resident-paid utilities.
- Paying the utility bill is the resident's obligation under the lease. Failure to pay utilities is grounds for eviction.

13.13 PAYING RENT

Rent and other charges are due and payable on the first day of the month. All rents should be paid as designated in the lease. Reasonable accommodations for this requirement will be made for persons with disabilities. As a safety measure, no cash shall be accepted as a rent payment. Residents are encouraged to pay their rent through Direct Deposit (ACH).

If the tenant does not pay the full amount of the rent by the end of the 5th day of the month, the Housing Authority will collect a fee of \$5 on the 6th day of the month. Thereafter, the Housing Authority will collect \$1 for each additional day the rent remains unpaid during the month it is due.

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14.0 COMMUNITY SERVICE (PUBLIC HOUSING ONLY)

14.1 GENERAL (24 CFR 960.601)

In order to be eligible for continued occupancy, each adult family member must either (1) contribute eight hours per month of community service (not including political activities), or (2) participate in an economic self-sufficiency program, or (3) perform eight hours per month of combined activities as previously described unless they are exempt from this requirement. The eight hours of activity must be performed each month. An individual may not skip a month and then double up the following month unless special circumstances warrant it.

14.2 EXEMPTIONS

The following adult family members of tenant families are exempt from this requirement:

- A. Family members who are 62 or older.
- B. Family members who are blind or disabled as defined under 216(I)(1) or 1614 of the Social Security Act (42 U.S.C. 416(I)(1) and who certifies that because of this disability she or he is unable to comply with the community service requirements.
- C. Family members who are the primary care giver for someone who is blind or disabled as set forth in Paragraph B above.
- D. Family members working, earning over \$5000 per year.

- E. Family members who are or would be exempt from work activity under part A title IV of the Social Security Act or under any other State welfare program, including the welfare-to-work program.
- F. Family members receiving assistance, benefits or services under a State program funded under part A title IV of the Social Security Act or under any other State welfare program, including welfare-to-work and who are in compliance with that program.

14.3 NOTIFICATION OF THE REQUIREMENT

The Oshkosh/Winnebago County Housing Authority shall identify all adult family members who are apparently not exempt from the community service requirement.

The Oshkosh/Winnebago County Housing Authority shall notify all such family members of the community service requirement, when their community service will begin, and of the categories of individuals who are exempt from the requirement. The notification will provide the opportunity for family members to claim and explain an exempt status in writing. The Oshkosh/Winnebago County Housing Authority shall verify such claims. If a resident does not agree with the Oshkosh/Winnebago County Housing Authority's determination, he or she can appeal by following the Grievance Policy. Changes in exempt or non-exempt status of a resident shall be reported by the resident to the Oshkosh/Winnebago County Housing Authority within ten (10) calendar days of the change. For families paying a flat rent, the obligation begins on the date their annual reexamination would have been effective had an annual reexamination taken place. It will also advise them that failure to comply with the community service requirement will result in ineligibility for continued occupancy at the time of any subsequent annual reexamination.

14.4 VOLUNTEER OPPORTUNITIES

Community service includes performing work or duties in the public benefit that serve to improve the quality of life and/or enhance resident self-sufficiency, and/or increase the self-responsibility of the resident within the community.

An economic self-sufficiency program is one that is designed to encourage, assist, train or facilitate the economic independence of participants and their families or to provide work for participants. These programs may include programs for job training, work placement, basic skills training, education, English proficiency, work fare, financial or household management, apprenticeship, and any program necessary to ready a participant to work (such as substance abuse or mental health treatment).

The Oshkosh/Winnebago County Housing Authority will coordinate with social service agencies, local schools, and the Human Resources Office in identifying a list of volunteer community service positions.

Together with the resident advisory councils, the Oshkosh/Winnebago County Housing Authority may create volunteer positions such as hall monitoring, litter patrols, and supervising and record keeping for volunteers.

14.5 THE PROCESS

Upon admission, and each annual reexamination thereafter, the Oshkosh/Winnebago County Housing Authority will do the following:

- A. Provide a list of volunteer opportunities to the family members.
- B. Provide information about obtaining suitable volunteer positions.
- C. The Property Manager will assist the family members in identifying appropriate volunteer positions and in meeting their responsibilities. The Property Manager will track the family member's progress annually and will meet with the family member as needed to best encourage compliance.
- D. At least thirty (30) calendar days before the family's next lease anniversary date, the Property Manager will advise the Oshkosh/Winnebago County Housing Authority whether each applicable adult family member is in compliance with the community service requirement.

14.6 NOTIFICATION OF NON-COMPLIANCE WITH COMMUNITY SERVICE REQUIREMENT

The Oshkosh/Winnebago County Housing Authority will notify any family found to be in noncompliance of the following:

- A. The family member(s) has been determined to be in noncompliance;
- B. That the determination is subject to the grievance procedure, a right to be represented by counsel, and the opportunity to any available judicial remedy; and
- C. That, unless the family member(s) enter into an agreement to comply, the lease will not be renewed or will be terminated;

14.7 OPPORTUNITY FOR CURE

The Oshkosh/Winnebago County Housing Authority will offer the family member(s) the opportunity to enter into an agreement prior to the anniversary of the lease. The

agreement shall state that the family member(s) agrees to enter into an economic self-sufficiency program or agrees to contribute to community service for as many hours as needed to comply with the requirement over the past 12-month period. It will state the number of hours that the family member is deficient. The cure shall occur over the 12-month period beginning with the date of the agreement and the resident shall at the same time stay current with that year's community service requirement. The first hours a resident earns go toward the current commitment until the current year's commitment is made.

The Property Manager will assist the family member in identifying volunteer opportunities and will track compliance on a monthly basis.

If any applicable family member does not accept the terms of the agreement, does not fulfill their obligation to participate in an economic self-sufficiency program, or falls behind in their obligation under the agreement to perform community service, the Oshkosh/Winnebago County Housing Authority shall take action to terminate the lease unless the noncompliant family member no longer lives in the unit.

14.8 PROHIBITION AGAINST REPLACEMENT OF AGENCY EMPLOYEES

In implementing the service requirement, the Oshkosh/Winnebago County Housing Authority may not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by its employees or replace a job at any location where residents perform activities to satisfy the service requirement.

15.0 LEASING

It is the PHA's policy that all units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations. This Chapter describes pre-leasing activities and the PHA's policies pertaining to lease execution, security deposits, other charges, and additions to the lease.

15.1 LEASE ORIENTATION

Upon execution of the lease, a PHA representative will provide a lease orientation to the family head of household and all adult household members.

The family must attend an orientation before taking occupancy of the unit.

Orientation Agenda

When families attend the lease orientation, they will be provided with:

- A copy of the lease and grievance procedure
- A copy of the House Rules and other notices

Topics to be discussed will include, but are not limited to:

- Applicable deposits and other charges;
- Provisions of the Lease;
- Orientation to the community;
- Unit maintenance and work orders;

Explanation of occupancy forms;
Terms of occupancy

15.2 EXECUTION OF LEASE

The lease shall be executed by the head of household and spouse and all other adult household members, and by an authorized representative of the PHA, prior to admission.

The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

An appointment will be scheduled for the parties to execute the lease. One executed copy of the lease will be given to the tenant, and one will be retained by the PHA in the tenant's file. The lease is incorporated into this policy by reference. The lease document will reflect current PHA policies as well as applicable federal, state and local law.

The following provisions govern lease execution and amendments:

1. A lease is executed at the time of admission for all new tenants.
2. A new lease is executed at the time of the transfer of a tenant from one Housing Authority unit to another.
3. If, for any reason, any person who signs the lease ceases to be a member of the household, an Addendum will be executed by the remaining members of the tenant family if the family is otherwise eligible for continued occupancy.

Persons signing the lease must be legally eligible to execute contracts. If no member of the household is qualified to sign a lease, a legal guardian may co-sign the lease, subject to PHA approval.

4. The names of all household members are listed on the lease at initial occupancy and on the Application for Continued Occupancy each subsequent year. Only those persons listed on the most recent certification shall be permitted to occupy a dwelling unit.
5. Changes to tenant rents are made upon the preparation and execution of a "Notice of Rent Adjustment" by the PHA, which becomes an attachment to the lease. Documentation will be included in the tenant file to support proper notice.
6. Households which include a Live-In Attendant are required to execute a lease addendum authorizing the arrangement and describing the status of

the attendant.

7. The PHA does not permit a parent or legal guardian to co-sign the lease on the applicant's behalf if the head of household is under 18.

The PHA may modify its form of lease from time to time, giving tenants an opportunity to comment on proposed changes and advance notice of the implementation of any changes. A tenant's refusal to accept permissible and reasonable lease modifications, or those modifications required by HUD is grounds for termination of tenancy.

15.3 ADDITIONS TO THE LEASE (PH -24 CFR 966.4)

Requests for the addition of a new member of the household must be approved by the PHA, prior to the actual move-in by the proposed new member.

- (a) Following receipt of a family's request for approval, the PHA will conduct a pre-admission screening of the proposed new member. Only new members approved by the PHA will be added to the household.
- (b) A newborn child born to a family member or a newborn child adopted by a family member shall be exempt from the pre-screening process.

1. Household additions who are subject to screening:

Resident is awarded custody of a child over the age for which juvenile justice records are available;

Resident desires to add a new family member to the lease, employ a live-in aide, or take in a foster child(ren).

A unit is occupied by a remaining family member(s) under age 18 (not an emancipated minor) and an adult who was not a member of the original household requests permission to take over as the head of household.

2. Residents who fail to notify the PHA of additions to the household, or who permit persons to join the household without undergoing screening, are in violation of the lease. Such persons are considered to be unauthorized occupants by the PHA, and the entire household will be subject to eviction [24 CFR 966.4(f)(3)].
3. Family members age 18 and over who move from the dwelling unit to establish new households shall be removed from the lease. The tenant must notify the PHA

of the move-out within 14 calendar days of its occurrence. Additionally, the vacating household member will provide the HA with documentation affirming their moving out (i.e. new lease, utility bill or other official record of new address).

These individuals may not be readmitted to the unit and must apply as a new applicant for placement on the waiting list or as an added family member.

Medical hardship or other extenuating circumstances will be considered by the PHA in making determinations under this paragraph.

4. Overnight visitors to a resident's unit cannot exceed 14 consecutive days, or a total of 30 days in a 12 month period without written permission of the HA. Overnight visitors who remain beyond these periods shall be considered an unauthorized household member whose presence constitutes a lease violation. Residents who wish to have overnight visitors beyond 14 consecutive days or a total of 30 days in a 12 month period, must notify the PHA in writing, explaining the circumstances of the request. The PHA, at its sole discretion, will authorize or deny such requests.
5. Roomers and lodgers are not permitted to occupy a unit, nor are they permitted to move in with any family occupying a unit.

Residents are not permitted to allow a former tenant of the PHA who has been evicted to occupy the unit for any period of time.

Residents must advise the PHA when they will be absent from the unit for more than 30 days and provide a means for the PHA to contact the resident in the event of an emergency. Failure to advise the PHA of extended absences is grounds for termination of the lease.

15.4 LEASING UNITS WITH ACCESSIBLE OR ADAPTABLE FEATURES

[24 CFR 8.27(a)(1)(2) and (b)]

Before offering a vacant accessible unit to a non-disabled applicant, the PHA will offer such units:

1. First, to a current occupant of a non-accessible/adaptable unit in the same development, or other housing developments under the PHA's control, who has a disability that requires the special features of the vacant unit, and has requested a transfer to such a unit.
2. Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible/adaptable unit to a non-disabled applicant, the PHA will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit. This requirement shall be a provision of the lease agreement.

15.5 UTILITY SERVICE (24 CFR 965)

Tenants responsible for direct payment of utilities must abide by any and all regulations of the specific utility company, including regulations pertaining to advance payments of deposits.

Failure to maintain utility services during tenancy is a lease violation and grounds for eviction.

Non-payment of excess utility charge payments to the PHA is a violation of the lease and is grounds for eviction.

15.6 SECURITY DEPOSITS

New tenants must pay a security deposit to the PHA at the time of admission. Tenants with pets must pay a pet deposit.

The amount of the security and/or pet deposit required is specified in the lease.

The PHA may permit installment payments of security deposits when a new tenant demonstrates a financial hardship to the satisfaction of the PHA.

The PHA will hold the security deposit in an interest bearing account and payout said interest at the current passbook rate or as specified in the lease for the period the tenant occupies the unit.

Upon majority vote of those residents of a mixed population building, all interest shall be transferred to the building's resident recreation account for use as they shall so vote among the residents for the enjoyment of the residents.

In the case of security deposits of scattered site family residents, said interest shall

accrue and be paid out to the lessee under the terms of the lease.

The PHA will refund to the Tenant the amount of the security deposit, less any amount needed to pay the cost of:

Unpaid Rent;

Damages listed on the Move-Out Inspection Report that exceed normal wear and tear;

Other charges under the Lease to include utility balances, cleaning charges and past due bills.

The HA will refund the Pet Deposit to the tenant, less any damage caused by the pet to the dwelling unit, upon removal of the pet from the unit (except family units).

The HA will provide the tenant with a written list of any charges against the security or pet deposits. If the tenant disagrees with the amount charged to the security or pet deposits, the PHA will schedule a meeting to discuss the charges.

The resident must leave the dwelling unit in a clean and undamaged (beyond normal wear and tear) condition and must furnish a forwarding address to the PHA . All keys to the unit must be returned to the PHA upon vacating the unit.

If the tenant transfers to another unit, the PHA will transfer the security deposit, less damages, and collect the difference between the transferred amount and the security deposit amount for the new unit. If applicable, the tenant will be informed of the new deposit amount. The new deposit will be collected when the new lease is executed.

15.7 RENT PAYMENTS / COLLECTION

All residents will be instructed that under the terms of their lease, their rent is due and payable in advance on the first working day of the month, a five-day grace period is permitted. Rent is delinquent after the fifth day of the month. If the first falls on a weekend or holiday, the rent shall be due and payable on the first business day thereafter.

All rents must be paid by personal check or money order made payable to the Oshkosh Housing Authority, Winnebago County Housing Authority or the Cumberland Court Housing Commission. No cash payments will be accepted.

The PHA will accept only money order payment to replace a tenant payment made with a check returned due non-sufficient funds (NSF). The PHA shall also charge the tenant with any bank fees/charges incurred as a result of the NSF check.

All unpaid rents become delinquent on the sixth day of each month. The resident will be served a Notice of Termination, informing them that their rent is past due and must be paid in full no later than 14 days from the date of notice or their lease is terminated.

Extensions may be granted beyond the fifth day of each month for good cause. To receive consideration for an extension a written request must be received prior to the fifth day of the month. No rent extensions will be considered for rent that is already delinquent. Approval of any rent payment extension shall be noted in the resident's file. If the rent is not paid on the date agreed to, the tenancy will be terminated in the usual manner. A maximum of two extensions in any twelve-month period may be granted.

If after receiving the Notice of Termination the resident does not satisfy their obligation in the allotted time, the Housing Authority will proceed with the termination of lease and the matter will be turned over to the attorney for the Housing Authority.

Residents are expected to make rent payments in the full amount due. Partial payments of the full amount due will be accepted only twice in any given twelve month period. A third attempt to make partial payment of rent in any twelve-month period will result in a "Notice of Termination."

Any resident who habitually disregards their obligation for payment of rent shall be evicted regardless of the status of their current rent payments.

15.8 FEES AND NONPAYMENT PENALTIES

Any amount charged by the HA's financial institution will be assessed against the tenant for checks which are returned for non-sufficient funds (NSF), or checks written on a closed account. If the check is not redeemed, and the rent satisfied, by the fifth of the month, the rent will be considered delinquent.

If the tenant fails to make payment by the fifth day of the month, and the PHA has not agreed to accept payment at a later date, a Notice to Vacate will be issued to the tenant with a 14 day notice period for failure to pay rent, demanding payment in full or the surrender of the premises.

Tenants will be charged a processing fee if the PHA issues a Notice of Termination. The charge will be based on administrative costs and fees for sending certified mail. The current fee will be posted in the Schedule of Special Charges as most recently amended. Tenants will be permitted one (1) grace termination notices during any twelve-month period.

15.9 SCHEDULES OF SPECIAL CHARGES

Schedules of Special Charges for services, repairs, and utilities and rules and regulations that are required to be incorporated into the lease by reference shall be publicly posted in a conspicuous manner in the project office, and they will be provided to applicants and tenants upon request.

15.10 MODIFICATIONS TO THE LEASE

Schedules of Special Charges and rules and regulations are subject to modification or revision. Tenants will be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and they will be given an opportunity to present written comments. Comments will be taken into consideration before any proposed modifications or revisions become effective.

A copy of such notice shall be posted in the central office, and:

Mailed by first class mail to the resident; or

Posted in at least two conspicuous places within each structure or building in which tenants affected by the modifications or revisions are located

Any modifications of the lease must be accomplished by a written addendum to the lease and signed by both parties.

15.11 CANCELLATION OF THE LEASE

Cancellation of the tenant's lease is to be in accordance with the provisions contained in the lease agreement and as stated in this policy.

15.12 INSPECTIONS OF PUBLIC HOUSING UNITS

1. Initial Inspections [24 CFR 966.4(i)]

The PHA and the family will inspect the premises prior to occupancy of the unit in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the tenant, will be kept in the unit file.

Any adult member may sign the inspection form for the head of household.

2. Vacate Inspections [24 CFR 966.4(i)]

The PHA will perform a move-out inspection when the family vacates the unit, and will encourage the family to participate in the move-out inspection. The purpose of this inspection is to determine if maintenance is needed that exceeds normal wear and tear, and if there are tenant caused damages to the unit.

3. Annual Inspections

The PHA will inspect all units annually using HUD's minimum Housing Quality Standards (HQS) and/or PHA standards as a guideline.

4. Preventive Maintenance Inspections

Preventive maintenance inspections will be performed by the PHA on a regular basis.

5. Periodic Inspections

The PHA will conduct periodic inspections to determine the condition of the unit and to identify problems or issues in which the PHA can be of service to the family.

6. Special Inspections

HUD representatives or local government officials may review PHA operations periodically and as a part of their monitoring may inspect a sampling of the PHA's inventory.

7. Emergency Inspections [24 CFR 966.4(j)]

If any employee and/or agent of the PHA has reason to believe that an emergency exists in the unit, an emergency inspection will be done without notification to the family. The person(s) who enters the unit will leave a written notice to the resident explaining the reason the unit was entered and the date and time.

8. Non-emergency Inspections/Entry

Non-emergency entries to the unit will be made during reasonable hours of the day. The PHA will give prior notice for non-emergency inspections. Reasons the PHA will enter the unit are:

Routine inspections and maintenance
To make improvements and repairs
To show the premises for leasing

Notice of non-emergency entry into the unit will be issued as specified in lease.

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16.0 RECERTIFICATIONS

At least annually, the Oshkosh/Winnebago County Housing Authority will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family is housed in the correct unit size, and program eligibility.

Public Housing

The HA will send a notification letter to the family letting them know that it is time for their annual reexamination, giving them the option of selecting either the flat rent or income method, and an appointment will be scheduled. If the family thinks they may want to switch from a flat rent to an income rent at the appointment, the family can make their final decision regarding which rent method they will choose. The letter also includes, for those families paying the income method, forms for the family to complete in preparation for the interview.

Multi-Family

The HA must provide tenants with the Initial Notice upon initial signing of the lease which serves to ensure the tenants understand that they will need to report to the property's management office by the specified date the following year to prepare for their next recertification. A First Reminder Notice is provided at least 120 days prior to the recertification anniversary date.

16.1 GENERAL

The Notice letters include instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the appointment, the Oshkosh/Winnebago County Housing Authority will determine whether family composition may require a transfer to a different bedroom size unit, and if so, the family's name will be placed on the transfer list.

Also, during the recertification, each household shall be asked whether any member is subject to the lifetime registration requirement under a state registration program. The Housing Authority will verify this information using the Dru Sjodin National Sex Offender Database and document this information in the same method used at admission. For any admissions after June 25, 2001 (the effective date of the Screening and Eviction for Drug Abuse and Other Criminal Activity final rule), if the recertification screening reveals that the tenant or a member of the tenant's household is subject to a lifetime sex offender registration requirement, or that the tenant has falsified information or otherwise failed to disclose his or her criminal history on their application and/or recertification forms, the Housing Authority will pursue eviction of the household.

If a family is about to be evicted from housing based on the criminal check or the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the eviction occurs.

16.2 FLAT RENTS (PUBLIC HOUSING ONLY)

The annual letter to flat rent payers regarding the reexamination process will state the following:

- A. Each year at the time of the annual reexamination, the family has the option of selecting a flat rent amount in lieu of completing the reexamination process and having their rent based on the income amount. (24 CFR 960.253)
- B. The amount of the flat rent.
- C. A fact sheet about income rents that explains the types of income counted, the most common types of income excluded, and the categories of allowances that can be deducted from income.

- D. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they otherwise would undergo.
- E. Families who opt for the flat rent may request to have a reexamination and return to the income based method at any time for any of the following reasons:
 - 1. The family's income has decreased.
 - 2. The family's circumstances have changed increasing their expenses for childcare, medical care, etc.
 - 3. Other circumstances creating a hardship on the family such that the income method would be more financially feasible for the family.

Once a family returns to the income based method during their “lease year” they cannot go back to a flat rent until their next regular annual reexamination.

- F. The dates upon which the Oshkosh/Winnebago County Housing Authority expects to review the amount of the flat rent, the approximate rent increase the family could expect, and the approximate date upon which a future rent increase could become effective.
- G. The name and phone number of an individual to call to get additional information or counseling concerning flat rents.
- H. A certification for the family to sign accepting or declining the flat rent.

Each year prior to their anniversary date, Oshkosh/Winnebago County Housing Authority will send a reexamination letter to the family offering the choice between a flat rent or an income rent. The opportunity to select the flat rent is available only at this time. At the appointment, the Oshkosh/Winnebago County Housing Authority may assist the family in identifying the rent method that would be most advantageous for the family. If the family wishes to select the flat rent method without meeting with the Oshkosh/Winnebago County Housing Authority representative, they may make the selection on the form and return the form to the Oshkosh/Winnebago County Housing Authority. In such case, the Oshkosh/Winnebago County Housing Authority will cancel the appointment and solely verify the family size and whether the family is in appropriate size unit and program eligibility.

16.3 THE INCOME METHOD (24 CFR 960.257)

During the interview, the family will provide all information regarding income, assets, deductions (eligible expenses), and other information necessary to determine the family's

share of rent. The family will sign the HUD consent form (9886 or 9887) and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, the Oshkosh/Winnebago County Housing Authority will determine the family's annual income and will calculate their rent as follows.

The total tenant payment is equal to the highest of:

- A. 10% of the family's monthly income;
- B. 30% of the family's adjusted monthly income;
- C. The welfare rent (See 13.6(c); or
- D. The minimum rent.

The family shall be informed of the results of the rent calculation under both the Income Method and the Flat Rent and given their choice of which rent to pay. (Public Housing only)

16.4 EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL REEXAMINATIONS

The new rent will generally be effective upon the anniversary date with thirty (30) calendar day notice of any rent increase to the family.

If the rent determination is delayed due to a reason beyond the control of the family, then any rent increase will be effective on the first of the month following at least 30 days' notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be effective as scheduled on the anniversary date.

If the family caused the delay, then any increase will be effective on the anniversary date. Any reduction will be effective the first of the month after the rent amount is determined.

16.5 INTERIM REEXAMINATIONS

During an interim reexamination, only the information affected by the changes being reported will be reviewed and verified.

Families will be required to report any increase in income totaling \$400 per month or more or a decrease in allowable expenses totaling \$200 per month or more.

Families are required to report the following changes to the Oshkosh/Winnebago County

Housing Authority between regular reexaminations. If the family's rent is being determined under the income method, these changes will trigger an interim reexamination. The family shall report these changes within fourteen (14) calendar days of their occurrence.

- A. A member has been added to the family through birth or adoption or court-awarded custody.
- B. A household member is leaving or has left the family unit.

In order to add a household member other than through birth, adoption, or court-awarded custody, the family must request that the new member be added to the lease prior to the new member living in the unit. Before adding the new member to the lease, the individual must complete an application form stating their income, assets, and all other information required of an applicant. The individual must provide their Social Security number and must verify their citizenship/eligible immigrant status. (Their housing will not be delayed due to delays in verifying eligible immigrant status other than delays caused by the family.) The new family member will go through the screening process similar to the process for applicants. The Oshkosh/Winnebago County Housing Authority will determine the eligibility of the individual before adding them to the lease. If the individual is found to be ineligible or does not pass the screening criteria, they will be advised in writing and given the opportunity for an informal review. If they are found to be eligible and do pass the screening criteria, their name will be added to the lease. At the same time, if the family's rent is being determined under the income method, the family's annual income will be recalculated taking into account the circumstances of the new family member. The effective date of the new rent will be in accordance with Section 16.8.

A resident requesting a live-in-aide will be required to provide verification of the need for a live-in-aide. In addition, before approval of the live-in-aide, the individual (live-in-aide) must complete an application form for purposes of determining citizenship/eligible immigrant status and the live-in-aide will go through the screening process similar to the process for applicants. The Oshkosh/Winnebago County Housing Authority will determine the eligibility of the live-in-aide before approval can be granted. If the individual is found to be ineligible or does not pass the screening criteria, the resident will be advised in writing and given the opportunity for an informal review. Under no circumstances will the live-in-aide be added to the lease or be considered the last remaining member of a tenant family.

Families are not required to, but may at any time, request an interim reexamination based on a decrease in income, an increase in allowable expenses, or other changes in family circumstances. Upon such request, the Oshkosh/Winnebago County Housing Authority will take timely action to process the interim reexamination and recalculate the tenant's rent.

16.6 SPECIAL REEXAMINATIONS

If a family's income is too unstable to project for twelve (12) months (i.e. working at a Temp Agency), including families that temporarily have no income (0 renters) or have a temporary decrease in income, the Oshkosh/Winnebago County Housing Authority may schedule special reexaminations every 30 calendar days until the income stabilizes and an annual income can be determined.

16.7 EFFECTIVE DATE OF RENT CHANGES DUE TO INTERIM OR SPECIAL REEXAMINATIONS [24 CFR 966.4(3)(b)]

Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective on the first of the month following at least thirty days' notice. If the family causes a delay, the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

Rent decreases usually go into effect the first of the month following the reported change. Income decreases reported and verified before the 15th of each month will be effective the first of the following month. Income decreases reported, but not verified, before the 15th of each month will be effective the first of the second month with a credit retroactive to the first month. A decrease that is verified to last less than 30 days will not be processed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

16.8 HOUSING AUTHORITY MISTAKES IN CALCULATING RENT

If the PHA undercharges at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively. If the Oshkosh/Winnebago County Housing Authority makes an error in calculating a resident's rent contribution and overcharges the resident, the resident shall receive a refund for the amount of the mistake going back a maximum of 24 months. The refund shall be given to the resident as soon as practical or credited to the resident's account, whichever the resident desires unless the resident owes the Housing Authority money in which case the debt shall be offset to the degree possible before the resident chooses between the two refund methods.

17.0 UNIT TRANSFERS [24 CFR 966.4(c)(3)]

17.1 OBJECTIVES OF THE TRANSFER POLICY

The objectives of the Transfer Policy include the following:

- A. To address emergency situations.
- B. To fully utilize available housing resources while avoiding overcrowding by ensuring that each family occupies the appropriate size unit.
- C. To facilitate a relocation when required for modernization or other management purposes.
- D. To facilitate relocation of families with inadequate housing accommodations.
- E. To provide an incentive for families to assist in meeting the Oshkosh/Winnebago County Housing Authority's de-concentration goal, if appropriate.
- F. To eliminate vacancy loss and other expenses due to unnecessary transfers.

17.2 CATEGORIES OF TRANSFERS

Category A: Emergency transfers. These transfers are necessary when conditions pose an immediate threat to the life, health, or safety of a family or one of its members. Such situations may involve defects of the unit or the building in which it is located, the health condition of a family member, a hate crime, the safety of witnesses to a crime, or a law enforcement matter particular to the neighborhood.

Category B: Immediate administrative transfers. These transfers are necessary in order to permit a family needing accessible features to move to a unit with such a feature or to enable modernization, revitalization, disposition or demolition work to proceed, to help meet certain Oshkosh/Winnebago County Housing Authority occupancy goals, to correct occupancy standards where the unit size is inappropriate for the size and composition of the family, to allow for non-emergency but medically advisable transfers, and other transfers approved by the Oshkosh/Winnebago County Housing Authority when a transfer is the only or best way of solving a serious problem. . When an accessible unit becomes available, it shall first be offered to families needing it who reside on the site that has the vacancy, then to other public housing residents needing the special accessibility features, and finally to appropriate people on the waiting list.

17.3 DOCUMENTATION

When the transfer is at the request of the family, the family may be required to provide third party verification of the need for the transfer.

17.4 PROCESSING TRANSFERS

Transfers in category A and B will be housed ahead of any other families, including those on the applicant waiting list. Transfers in category A will be housed ahead of transfers in category B.

Upon offer and acceptance of a unit, the family will execute all lease up documents and pay any rent and/or security deposit within two (2) business days of being informed the unit is ready to rent. The family will be allowed seven (7) calendar days to complete a transfer. The family will be responsible for paying rent at the old unit as well as the new unit for any period of time they have possession of both. The prorated rent and other charges (key deposit and any additional security deposit owing) must be paid at the time of lease execution.

The following is the policy for the rejection of an offer to transfer:

- A. If the family rejects with good cause any unit offered, they will not lose their place on the transfer waiting list.

- B. If the transfer is being made at the request of the Oshkosh/Winnebago County Housing Authority and the family rejects two offers without good cause, the Oshkosh/Winnebago County Housing Authority will take action to terminate their tenancy. If the reason for the transfer is that the current unit is too small to meet the Oshkosh/Winnebago County Housing Authority's optimum occupancy standards, the family may request in writing to stay in the unit without being transferred so long as their occupancy will not exceed two people per living/sleeping room.
- C. If the transfer is being made at the family's request, the family may, without good cause and without penalty, turn down one offer.

17.5 COST OF THE FAMILY'S MOVE

The cost of the transfer generally will be borne by the family in the following circumstances:

- A. When the transfer is made at the request of the family or by others on behalf of the family (i.e., by the police);
- B. When the transfer is needed to move the family to an appropriately sized unit, either larger or smaller;

or
- C. When the transfer is needed because action or inaction by the family caused the unit to be unsafe or uninhabitable.

The reasonable cost of the transfer will be borne by the Oshkosh/Winnebago County Housing Authority in the following circumstances:

- A. When the transfer is needed in order to carry out modernization, disposition or demolition activities; or
- D. When action or inaction by the Oshkosh/Winnebago County Housing Authority has caused the unit to be unsafe or inhabitable; or
- E. When the transfer is necessitated because a family with disabilities needs the accessible unit into which the transferring family moved.

The responsibility for moving costs in other circumstances will be determined on a case by case basis.

17.6 TENANTS IN GOOD STANDING

When the transfer is at the request of the family, it will not be approved unless the family is in good standing with the Oshkosh/Winnebago County Housing Authority. This means the family must be in compliance with their lease, current in all payments to the Housing Authority, and must pass a housekeeping inspection.

17.7 TRANSFER REQUESTS

A tenant may request a transfer in writing at any time. In considering the request, the Oshkosh/Winnebago County Housing Authority may request a meeting with the tenant to better understand the need for transfer and to explore possible alternatives. The Oshkosh/Winnebago County Housing Authority will review the request in a timely manner and if a meeting is desired, it shall contact the tenant within ten (10) business days of receipt of the request to schedule a meeting.

The Oshkosh/Winnebago County Housing Authority will grant or deny the transfer request in writing within ten (10) business days of receiving the request or holding the meeting, whichever is later.

If the transfer is approved, the family's name will be added to the transfer waiting list.

If the transfer is denied, the denial letter will advise the family of their right to utilize the grievance procedure.

17.8 RIGHT OF THE OSHKOSH/WINNEBAGO COUNTY HOUSING AUTHORITY IN TRANSFER POLICY

The provisions listed above are to be used as a guide to ensure fair and impartial means of assigning units for transfers. It is not intended that this policy will create a property right or any other type of right for a tenant to transfer or refuse to transfer.

18.0 INSPECTIONS

18.1 MOVE-IN INSPECTIONS

The Oshkosh/Winnebago County Housing Authority and an adult member of the family will inspect the unit prior to signing the lease. Both parties will sign a written statement of the condition of the unit. A copy of the signed inspection will be given to the family and the original will be placed in the tenant file. The family has seven (7) days from the date of the inspection to document any additional damages they find and re-sign, date and return the Move-In inspection form to the Housing Authority.

18.2 ANNUAL INSPECTIONS

The Oshkosh/Winnebago County Housing Authority will inspect each housing unit annually to ensure that each unit meets the Oshkosh/Winnebago County Housing Authority's housing standards. Work orders will be submitted and completed to correct any deficiencies.

18.3 PREVENTATIVE MAINTENANCE INSPECTIONS

This is generally conducted along with the annual inspection. This inspection is intended to keep items in good repair. It checks weatherization; checks the condition of the smoke

detectors, water heaters, furnaces, automatic thermostats and water temperatures; checks for leaks; and provides an opportunity to inspect furnace filters and provide other minor servicing that extends the life of the unit and its equipment.

18.4 SPECIAL INSPECTIONS

A special inspection may be scheduled to enable HUD or others to inspect a sample of the housing stock maintained by the Oshkosh/Winnebago County Housing Authority.

18.5 HOUSEKEEPING INSPECTIONS

Generally, at the time of annual reexamination, or at other times as necessary, the Oshkosh/Winnebago County Housing Authority will conduct a housekeeping inspection to ensure the family is maintaining the unit in a safe and sanitary condition. Prompt notification, to the HA, on any pest infestations noted in or around the families dwelling unit is a lease requirement.

18.6 NOTICE OF INSPECTION

For inspections defined as annual inspections, preventative maintenance inspections, special inspections, and housekeeping inspections, the Oshkosh/Winnebago County Housing Authority will give the tenant at least a twelve (12) hour written notice.

18.7 EMERGENCY INSPECTIONS

If any employee and/or agent of the Oshkosh/Winnebago County Housing Authority has reason to believe that an emergency exists within the housing unit, the unit can be entered without notice. The person(s) that enters the unit will leave a written notice to the resident that indicates the date and time the unit was entered and the reason why it was necessary to enter the unit.

18.8 PRE-MOVE-OUT INSPECTIONS

When a tenant gives notice that they intend to move, the Oshkosh/Winnebago County Housing Authority will provide move-out guidelines and may offer to schedule a pre-move-out inspection with the family. The guidelines and inspection allows the Oshkosh/Winnebago County Housing Authority to help the family identify any problems which, if left uncorrected, could lead to vacate charges. This inspection is a courtesy to the family and has been found to be helpful both in reducing costs to the family and in enabling the Oshkosh/Winnebago County Housing Authority to ready units more quickly for the future occupants.

18.9 MOVE-OUT INSPECTIONS

When the Resident vacates, the Oshkosh/Winnebago County Housing Authority shall inspect the dwelling unit and shall furnish the Resident a written statement of the condition of the dwelling unit, equipment and grounds and any charges to be made provided the resident turns in the proper notice under State law. The resident's security deposit can be used to offset against any Oshkosh/Winnebago County Housing Authority damages to the unit. The Resident and/or his/her representatives are encouraged to join in the inspection. If the resident fails to make arrangements to inspect the unit within 24 hours after vacation the dwelling, the Housing Authority will proceed without the Resident's presence.

18.10 PROPERTY ABANDONEMENT

If the tenant removes from the premises and leaves personal property, the HA may presume, in the absence of a written agreement between the HA and the tenant to the contrary, that the tenant has abandoned the personal property and may dispose of the abandoned personal property in any manner that the HA, in its sole discretion, determines is appropriate, except medical items, which the HA shall hold for 7 days unless tenant requests the return of medical items before the HA disposes of it.

19.0 PET POLICY [24 CFR PART 5; 960.701-707)]

19.1 EXCLUSIONS [(4350.3(2-44)]

This policy does not apply to service animals, support animals, assistance animals, or therapy animals that are used to assist persons with disabilities. These animals are allowed in all public housing facilities with no restrictions other than those imposed on all tenants to maintain their units and associated facilities in a decent, safe, and sanitary manner and to refrain from disturbing their neighbors. The person requesting this exclusion to the Pet Policy of this housing authority must have a disability and the accommodation must be necessary to afford the person with a disability an equal opportunity to use and enjoy a dwelling.

To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the person's disability. The Oshkosh/Winnebago County Housing Authority will verify the existence of the disability, and the need for the accommodation—if either is not readily apparent. Accordingly, persons who are seeking a reasonable accommodation for an emotional support animal will be required to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides support that alleviates at least one of the identified symptoms or effects of the existing disability.

In addition, the Oshkosh/Winnebago County Housing Authority is not required to provide any reasonable accommodation that would pose a direct threat to the health or safety of others. Thus, if the particular animal requested by the individual with a disability has a history of dangerous behavior, we will not accept the animal into our housing. Moreover, we are not required to make a reasonable accommodation if the presence of the assistance animal would (1) result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by a reasonable accommodation; (2) pose an undue financial and administrative burden; or (3) fundamentally alter the nature of the provider's operations. Service animals will be required to abide by sub-section 19.5 Inoculations.

19.2 PETS IN PUBLIC HOUSING

The Oshkosh/Winnebago County Housing Authority allows for pet ownership in its developments with the written pre-approval of the Housing Authority. Residents are responsible for any damage caused by their pets, including the cost of fumigating or cleaning their units. In exchange for this right, resident assumes full responsibility and liability for the pet and agrees to hold the Oshkosh/Winnebago County Housing Authority harmless from any claims caused by an action or inaction of the pet.

19.3 APPROVAL

Residents must have the prior written approval of the Housing Authority before moving a pet into their unit. Residents must request approval on the Request For Authorization for Pet Ownership form and a Pet Sponsor form that must be fully completed before the Housing Authority will approve the request. Residents must give the Housing Authority a picture of the pet so it can be identified if it is running loose.

19.4 TYPES AND NUMBER OF PETS

The Oshkosh/Winnebago County Housing Authority will allow only common household pets. This means only domesticated animals such as a dog, cat, bird, rodent (including a rabbit), fish in aquariums or a turtle will be allowed in units. Common household pets do not include reptiles (except turtles). If this definition conflicts with a state or local law or regulation, the state or local law or regulation shall govern.

All dogs and cats must be spayed or neutered before they become six months old. A licensed veterinarian must verify this fact.

No types of pets other than the following may be kept by a resident.

1. Dogs
Maximum number: 1
Maximum adult weight: 30 pounds (60 pounds at scattered site properties only)
Must be housebroken
Must be spayed or neutered
Must have all required inoculations as specified now or in the future
Must be licensed as specified now or in the future by State law and local ordinance.
Must wear an identification collar at all times. The collar shall have attached a current license tag, rabies/distemper tag and an owner's name tag.
2. Domestic Cats
Maximum number 1
Maximum adult weight: 15 pounds
Must be trained to use a litter box or other waste receptacle
Must be spayed or neutered
Must have all required inoculations as specified now or in the future
Must be licensed as specified now or in the future by State law or local ordinance
Must wear an identification collar at all times. The collar shall have attached a current license tag, rabies/distemper tag and an owner's name tag.
3. Birds
Maximum number 2
Must be enclosed in a cage at all times
4. Fish
Maximum number of aquariums 2
Maximum aquarium size 20 gallon
Must be maintained on an approved stand
5. Rodents (Guinea pig or hamster ONLY)
Maximum number 2
Must be enclosed in an acceptable cage at all times
Must have any or all inoculations as specified now or in the future by State law or local ordinance

Any animal deemed to be potentially harmful to the health or safety of others, including attack or fight trained dogs, will not be allowed.

No animal may exceed thirty (30) pounds in weight projected to full adult size (Sixty (60) pounds at Scattered Site properties).

19.5 INOCULATIONS

In order to be registered, pets must be appropriately inoculated against rabies, distemper and other conditions prescribed by state and/or local ordinances. They must comply with all other state and local public health, animal control, and anti-cruelty laws including any licensing requirements. A certification signed by a licensed veterinarian or state or local official shall be annually filed with the Oshkosh/Winnebago County Housing Authority to attest to the inoculations.

19.6 PET DEPOSITS / NON-REFUNDABLE NOMINAL FEE (SERVICE ANIMALS EXEMPT)

A refundable Pet Security Deposit in the amount of \$100.00 has been paid for a dog or cat if the resident had the pet prior to April 1, 2001.

A refundable Pet Security Deposit in the amount of \$100.00 shall be paid for a dog or cat. This applies to the following projects only: Marian Manor, Court Tower, Mainview Apartments, Fox View Manor, and Riverside Apartments.

A refundable Pet Security Deposit in the amount of \$200.00 shall be paid for a cat after April 1, 2001. This applies to Cumberland Court Apartments only.

A non-refundable nominal fee in the amount of \$200.00 shall be paid for a dog or cat after April 1, 2001. This applies to scattered site family units in Oshkosh, Neenah and Menasha.

A refundable Pet Security Deposit in the amount of \$50.00 shall be paid for small mammals (i.e. rabbit, guinea pig, hamster, and gerbil). This applies to scattered site family units in Oshkosh, Neenah and Menasha.

If the resident had the pet prior to April 1, 2001 the Pet security Deposit, less damages, will be returned upon termination of occupancy even if the pet is removed from the rental unit prior to termination.

19.7 FINANCIAL OBLIGATION OF RESIDENTS

Any resident who owns or keeps a pet in their dwelling unit will be required to pay for any damages caused by the pet. Also, any pet-related insect infestation in the pet owner's unit will be the financial responsibility of the pet owner and the Oshkosh/Winnebago County Housing Authority reserves the right to exterminate and charge the resident.

19.8 NUISANCE OR THREAT TO HEALTH OR SAFETY

The pet and its living quarters must be maintained in a manner to prevent odors and any other unsanitary conditions in the owner's unit and surrounding areas.

Repeated substantiated complaints by neighbors or Oshkosh/Winnebago County Housing Authority personnel regarding pets disturbing the peace of neighbors through noise, odor, animal waste, or other nuisance may result in the owner having to remove the pet or move him/herself.

Pets who make noise continuously and/or incessantly for a period of 10 minutes or intermittently for one half hour or more to the disturbance of any person at any time of day or night shall be considered a nuisance.

19.9 DESIGNATION OF PET AREAS

Pets must be kept in the owner's apartment or on a leash of no more than four (4) feet at all times when outside the unit (no outdoor cages may be constructed). Pets will be allowed only in designated areas on the grounds of the property if the Oshkosh/Winnebago County Housing Authority designates a pet area for the particular site. Pet owners must clean up after their pets and are responsible for disposing of pet waste. Pets will not be left unaccompanied in the yard of the rental unit.

With the exception of assistive animals no pets shall be allowed in the community room, community room kitchen, laundry rooms, public bathrooms, lobby, beauty shop, hallways or office in any of our sites.

19.10 MISCELLANEOUS RULES

Pets may not be left unattended in a dwelling unit for over 24 hours. If the pet is left unattended and no arrangements have been made for its care, the HA will have the right to enter the premises and take the uncared for pet to be boarded at a local animal care facility at the total expense of the resident.

Pet bedding shall not be washed in any common laundry facilities.

Residents must take appropriate actions to protect their pets from fleas and ticks.

All dogs must wear a tag bearing the resident's name and phone number and the date of the latest rabies inoculation.

Pets cannot be kept, bred or used for any commercial purpose.

Residents owning cats shall maintain waterproof litter boxes for cat waste. Refuse from litter boxes shall not accumulate or become unsightly or unsanitary. Litter shall be disposed of in an appropriate manner.

A pet owner shall physically control or confine his/her pet during the times when Housing Authority employees, agents of the Housing Authority or others must enter the pet owner's apartment to conduct business, provide services, enforce lease terms, etc.

If a pet causes harm to any person, the pet's owner shall be required to permanently remove the pet from the Housing Authority's property within 24 hours of written notice from the Housing Authority. The pet owner may also be subject to termination of his/her dwelling lease.

A pet owner who violates any other conditions of this policy may be required to remove his/her pet from the development within 10 calendar days of written notice from the Housing Authority. The pet owner may also be subject to termination of his/her dwelling lease.

The Housing Authority's grievance procedures shall be applicable to all individual grievances or disputes arising out of violations or alleged violations of this policy.

19.11 VISITING PETS

Visiting pets are not allowed.

19.12 REMOVAL OF PETS

The Oshkosh/Winnebago County Housing Authority, or an appropriate community authority, shall require the removal of any pet from a project if the pet's conduct or condition is determined to be a nuisance or threat to the health or safety of other occupants of the project or of other persons in the community where the project is located.

In the event of illness or death of pet owner, or in the case of an emergency which would prevent the pet owner from properly caring for the pet, the Oshkosh/Winnebago County Housing Authority has permission to call the Pet Sponsor designated by the resident or the local Pet Law Enforcement Agency to take the pet and care for it until family or friends would claim the pet and assume responsibility for it. Any expenses incurred will be the responsibility of the pet owner.

20.0 FAMILY DEBTS TO THE PHA

This Chapter describes the PHA's policies for the recovery of monies which have been underpaid by families. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the PHA's policy to meet the informational needs of families, and to communicate the program rules in order to avoid family debts. Before a debt is assessed against a family, the file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the family or other interested parties.

When families or owners owe money to the PHA, the PHA will make every effort to collect it. The PHA will use a variety of collection tools to recover debts including, but not limited to:

Request lump sum payments

Repayment agreements
Collection agencies
Credit bureaus
Civil suits
Department of Revenue Tax Intercept Program

20.1 REPAYMENT AGREEMENTS (24 CFR 5.569, PIH 2010-19(HA) & 2013-6 LWF)

When a resident owes the Oshkosh/Winnebago County Housing Authority retroactive rent or back charges and is unable to pay the balance by the due date, the resident may request that the Oshkosh/Winnebago County Housing Authority allow them to enter into a Repayment Agreement. The Oshkosh/Winnebago County Housing Authority has the sole discretion of whether to accept such an agreement. A Repayment Agreement as used in this Plan is a document entered into between the PHA and a person who owes a debt to the PHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement, and the remedies available to the PHA upon default of the agreement. All Repayment Agreements must be in writing and signed by both parties. They must include the following elements:

- A. Reference to the paragraphs in the Housing Authority lease whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.
- B. The monthly retroactive rent repayment amount is in addition to the family's regular rent contribution and is payable to the PHA.
- C. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
- D. Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.
- E. Repayment Schedule for Monies Owed to the PHA

<u>Initial Payment Due (% of Total Amount)</u>	<u>Amount Owed</u>	<u>Maximum Term</u>
20%	0 - \$500	3 - 6 months
20%	\$501 - \$1,000	6 - 12 months
20%	\$1,001 - \$2,500	12 - 18 months

Refusal to enter into a Repayment Agreement for monies owed will subject the family to eviction procedures.

The Housing Authority will allow for repayment agreements for those tenants whose rental amount is the minimum rent and who have had their rent abated for a temporary period.

Late Payments

A payment will be considered to be in arrears if:

The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's repayment agreement is in arrears, the PHA will:

- Require the family to pay the balance in full
- If the family requests a transfer to another unit and has a repayment agreement in place and the repayment agreement is not in arrears, the family will be permitted to move.

Guidelines for Repayment Agreements

Repayment Agreements will be executed between the HA and the head of household only.

Monthly payments may be decreased in cases of hardship with the written request from the family, verification of the hardship, and the approval of the HA.

No transfer will be approved until the debt is paid in full unless the transfer is the result of the following causes, and the Repayment Agreement is current:

Family size exceeds the maximum occupancy guidelines

The family becomes displaced as that term is defined in this policy

Additional Monies Owed

If the family has a Repayment Agreement in place and incurs an additional debt to the PHA:

The PHA may enter into a new Repayment Agreement that includes additional amounts owed by the family. Families will not receive additional repay agreements unless at least 1 or 2 initial repay agreements have been satisfied and family is in good standing.

20.2 DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead.

Family Error/Late Reporting

Families who owe money to the HA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment Section of this Chapter.

Program Fraud

Families who owe money to the PHA due to program fraud will be required to repay in accordance with the guidelines in Sub-section 20.1.

If a family owes an amount which equals or exceeds \$5,000.00 as a result of program fraud, the case may be referred to Inspector General. Where appropriate, the PHA will refer the case for prosecution.

20.3 WRITING OFF DEBTS

Debts will be written off on accounts that meet all of the following criteria:

- Resident is no longer receiving housing assistance, and
- HA has issued 2 written notices of the amount owed and ex-resident has failed to make payment on the debt, and
- HA has turned the account over to a Collection Agency or to TRIP to continue collection efforts and the ex-resident has failed to make payment on the debt, and the account balance is a minimum of 1 month delinquent.

21.0 TERMINATION

21.1 TERMINATION BY TENANT

The tenant may terminate the lease at any time upon submitting a 30-day written notice (sixty (60) day written notice for Public Housing properties). If the tenant vacates prior to the end of the written notice, they will be responsible for rent through the end of the notice period or until the unit is re-rented, whichever occurs first.

21.2 TERMINATION BY THE HOUSING AUTHORITY

Twelve months after the Oshkosh/Winnebago County Housing Authority has implemented the mandated Community Service Requirement, it will not renew the lease of any non-exempt family that is not in compliance with the Community Service Requirement or approved Agreement to Cure. If they do not voluntarily leave the property, eviction proceedings will begin.

The Oshkosh/Winnebago County Housing Authority will terminate the lease for serious or repeated violations of material lease terms. Such violations include, but are not limited to, the following:

- A. Nonpayment of rent, utilities or other charges;
- B. A history of late rental payments;
- C. Failure to provide timely and accurate information regarding family composition, income circumstances, or other information related to eligibility or rent;
- D. Failure to allow inspection of the unit;
- E. Failure to maintain the unit in a safe and sanitary manner;
- F. Assignment or subletting of the premises;
- G. Use of the premises for purposes other than as a dwelling unit (other than for housing authority approved resident businesses);
- H. Destruction of property;
- I. Acts of destruction, defacement, or removal of any part of the premises or failure to cause guests to refrain from such acts;
- J. Failure to abide by necessary and reasonable rules made by the Landlord for the benefit and well-being of the housing project and the Tenants;
- K. Failure to dispose of garbage, waste and rubbish in a safe and sanitary manner;
- L. Failure to use electrical, plumbing, sanitary, heating, ventilating, air conditioning and other equipment, including elevators, in a safe manner;
- M. Failure to pay reasonable charges (other than for normal wear and tear) for the repair of damages to the premises, project buildings, facilities, equipment, or common areas;
- N. Any violent or drug-related criminal activity on or off the premises, not just on or near the premises. This includes any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control. This includes but is not limited to the manufacture of methamphetamine on the premises of the Oshkosh/Winnebago County Housing Authority or on the premises of any other federally assisted housing;

- O. Non-compliance with Non-Citizen Rule requirements;
- P. Permitting persons not on the lease to reside in the unit more than fourteen (14) consecutive days each year without the prior written approval of the Housing Authority. Any person not included on the lease who has been in the unit more than 14 consecutive days, or a total of 30 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is a family member.

Statements from neighbors and/or PHA staff will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as evidence that the visitor is using the unit as their permanent residence.

Minors and college students who were part of the family but who now live away from home during the school year and are not considered members of the household may visit for up to 90 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than fifty (50%) percent of the year, the minor will be considered to be an eligible visitor and not a family member. The minor will not be included in determining unit size;

- Q. Failure to abide by applicable building and housing codes or any activity that materially affects or threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the Authority by the resident, household members, or guests of the resident or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy;
- R. Alcohol abuse that the Oshkosh/Winnebago County Housing Authority determines interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- S. Failure to perform required community service or be exempted therefrom;
- T. The Oshkosh/Winnebago County Housing Authority will take immediate action to evict any household that includes an individual who is subject to a lifetime registration requirement under a State sex offender registration program;

- U. Determination that a household member is illegally using a drug or when the Oshkosh/Winnebago County Housing Authority determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- V. Criminal activity as shown by a criminal record. In such cases the Oshkosh/Winnebago County Housing Authority will notify the household of the proposed action to be based on the information and will provide the subject of the record and the tenant with a copy of the criminal record before the Oshkosh/Winnebago County Housing Authority grievance hearing or court trial concerning the termination of tenancy or eviction. The tenant will be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial;
- W. Disconnecting a smoke detector in any manner, removing any batteries from a smoke detector or failing to notify the Housing Authority if the smoke detector is inoperable for any reason;
- X. Fully cooperate in any pest control efforts made by the HA, and;
- Y. Other good cause.

In deciding to terminate a tenancy for criminal activity or alcohol abuse, the Oshkosh/Winnebago County Housing Authority will consider circumstances relevant to the particular case such as the seriousness of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity, and the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action.

AND

In deciding to terminate a tenancy for criminal activity or alcohol abuse, the Oshkosh/Winnebago County Housing Authority will require a leaseholder to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for an action or failure to act that warrants the termination.

AND

In deciding to terminate a tenancy for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the Oshkosh/Winnebago County Housing Authority may consider whether such household member:

1. Is participating in a supervised drug or alcohol rehabilitation program;
2. Has successfully completed a supervised drug or alcohol rehabilitation program; or
3. Has otherwise been successfully rehabilitated.

For this purpose, Oshkosh/Winnebago County Housing Authority may require the leaseholder to submit evidence of one of the above 3 statements.

21.2A VAWA PROTECTIONS (24 CFR PART 5, SUBPART L & VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013)

Under the Violence Against Women Act (VAWA), public housing residents have the following specific protections, which will be observed by the Oshkosh/Winnebago County Housing Authority:

An incident or incidents or actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not in itself be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

The Housing Authority may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence, sexual assault or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants. This is also true even if the household member is not a signatory to the lease. Under VAWA, the Oshkosh/Winnebago County Housing Authority is granted the authority to bifurcate the lease.

The Housing Authority will honor court orders regarding the rights of access or control of the property.

There is no limitation on the ability of the Housing Authority to evict for other good cause unrelated to the incident or incidents of domestic violence, dating violence, sexual assault or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.

There is no prohibition on the Housing Authority evicting if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) tenancy is not terminated.” An actual and imminent threat consists of a physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

The Oshkosh/Winnebago County Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority. Types of acceptable verifications are outlined below, and must be submitted within 14 business days after receipt of the Housing Authority's written request for verification.

21.2B VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE OR STALKING

The Oshkosh/Winnebago County Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority.

A. *Requirement for Verification.* The law allows, but does not require, the Oshkosh/Winnebago County Housing Authority to verify that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. The Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence sexual assault or stalking may be accomplished in one of the following *four* ways:

- 1. *HUD-approved form (HUD-50066)*** - By providing to the Housing Authority a written certification, on the form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence, sexual assault or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim.

2. ***Other documentation*** - by providing to the Housing Authority documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence, sexual assault or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.
 3. ***Police or court record*** – by providing to the Housing Authority a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.
 4. ***An acceptable form of documentation includes a record of an administrative agency.***
- B. *Time allowed to provide verification/failure to provide.*** An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking, and who is requested by the Housing Authority to provide verification, must provide such verification within 14 business days after receipt of the written request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action. The submission of false information may be the basis for the termination of assistance or for eviction.
- C. *Managing conflicting documentation.*** In cases where the Oshkosh/Winnebago County Housing Authority receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the Oshkosh/Winnebago County Housing Authority may determine which is the true victim by requiring third-party documentation as described in 24 CFR 5.2007 and in accordance with any HUD guidance as to how such determinations will be made. The Oshkosh/Winnebago County Housing Authority shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household.

21.2C CONFIDENTIALITY

All information provided under VAWA including the fact that an individual is a victim of domestic violence, dating violence, sexual assault or stalking, shall be retained in confidence and shall not be entered into any shared database or provided to any related entity except to the extent that the disclosure is:

- A. Requested or consented to by the individual in writing;
- B. Required for used in an eviction proceeding; or
- C. Otherwise required by applicable law.

The Oshkosh/Winnebago County Housing Authority shall provide its tenants notice of their rights under VAWA including their right to confidentiality and the limits thereof.

21.3 NOTIFICATION REQUIREMENTS

The PHA's written Notice of Lease Termination will state the reason for the proposed termination, the date that the termination will take place, and it will offer the resident all of the rights and protections afforded by the regulations and this policy. (See Leasing and Complaints, Grievances and Appeals Policies.)

Notices of lease termination shall be served in accordance with the terms of the lease.

A. Timing of the Notice

If the PHA terminates the lease, written notice will be given as follows:

At least 14 days prior to termination in the case of failure to pay rent;

A reasonable time, according to State law, prior to termination commensurate with the urgency of the situation in the case of creation or maintenance of a threat to the health or safety of other tenants or PHA employees or the safety of the premises.

At least thirty days prior to termination in all other cases.

B. Criminal Activity

In an eviction for criminal activity, the PHA shall have the discretion to consider all circumstances of the case including but not limited to:

The seriousness of the offense;
The extent of participation by family members; and
The effects on non-involved family members.

21.4 TERMINATIONS FOR CRIMINAL ACTIVITY

- A. The term “due process determination” means a determination by HUD that law covering the Oshkosh/Winnebago County Housing Authority’s jurisdiction requires that residents must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.
- B. HUD has issued a due process determination that the law of this State requires that residents be given the opportunity for a hearing in a court that provides the basic elements of due process before eviction from a dwelling unit. The Oshkosh/Winnebago County Housing Authority has therefore determined that this Grievance Procedure shall not be applicable to any termination of tenancy or eviction for:
 - 1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the Oshkosh/Winnebago County Housing Authority’s public housing premises by other residents or employees of the Housing Authority;
 - 2. Any violent or drug-related criminal activity on or off such premises; or
 - 3. Any activity resulting in a felony conviction.

21.5 ABANDONMENT

The HA’s Property Abandonment policies follows Wisconsin State statutes.

21.6 RETURN OF SECURITY DEPOSIT

After a family moves out, the Oshkosh/Winnebago County Housing Authority will return the security deposit within **21calendar days** or give the family a written statement of why all or part of the security deposit is being kept. The rental unit must be restored to the same conditions as when the family moved in, except for normal wear and tear. Deposits will not be used to cover normal wear and tear or damage that existed when the family moved in.

If State law requires the payment of interest on security deposits, it shall be complied with.

The Oshkosh/Winnebago County Housing Authority will be considered in compliance with the above if the required payment, statement, or both, are deposited in the U.S. mail with first class postage paid within **21** calendar days.

21.7 THE EIV'S DECEASED TENANTS REPORT

The Oshkosh/Winnebago County Housing Authority shall generate the EIV's Deceased Tenants Report monthly shortly before either the end of the month or creating rent statements to see if the system flags deceased residents. The Oshkosh/Winnebago County Housing Authority shall review the report and follow up with any listed families immediately and take any necessary corrective action as set forth in PIH Notice 2010-50 or successor publications.

If it is a single member household, the Housing Authority shall immediately visit the unit and determine if it is vacant or occupied by an unauthorized person. If improperly occupied, the Housing Authority shall take immediate eviction actions under state law. If the property is occupied by a live-in-aide to the deceased person, the aide must move out immediately and is not eligible for continued occupancy or rental assistance.

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22.0 SUPPORT FOR OUR ARMED FORCES

A major and important component of our armed forces is the part-time military personnel that serve in various Reserve and National Guard units. The Oshkosh/Winnebago County Housing Authority is very supportive of these men and women. An unfortunate fact of service in both the Reserves and National Guard is that from time to time their personnel are activated to full-time status and asked to serve our country in a variety of ways and circumstances. Whenever the Federal Government activates Reserve and/or National Guard personnel, the Oshkosh/Winnebago County Housing Authority wants to support these brave warriors in the following manners:

- A. If a family finds it necessary for another adult to temporarily move into a unit solely to serve as a temporary guardian for children residing in the unit, the income received by the temporary guardian will not be counted in determining family income.

- B. Although typically a criminal background check is required before anyone can move into a public housing unit, this requirement will be waived for a temporary guardian. Instead, the background check will occur after the person moves in. If the results of the check dictate that the person is ineligible for public housing, the family shall be given a reasonable time to find a replacement temporary guardian.
- C. Recognizing that activation in the Reserves or National Guard can be very disruptive to a family's income, the Oshkosh/Winnebago County Housing Authority will expeditiously re-evaluate a resident's rent if requested to do so and will exercise reasonable restraint if the activated resident has trouble paying their rent.
- D. Typically a unit cannot be held by a family that is not residing in it as their primary residence. If all members of a military family are temporarily absent from the unit because a member of the family has been called to active duty, the family can retain control of the unit by paying the required rent and returning to the unit within 30 calendar days of the conclusion of the active duty service.

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23.0 ANTI-FRAUD POLICY

The Oshkosh/Winnebago County Housing Authority is fully committed to combating fraud in its housing programs. It defines fraud as a single act or pattern of actions that include false statements, the omission of information, or the concealment of a substantive fact made with the intention of deceiving or misleading the Oshkosh/Winnebago County Housing Authority. It results in the inappropriate expenditure of public housing funds and/or a violation of public housing requirements.

Although there are numerous different types of fraud that may be committed, the two most common are the failure to fully report all sources of income and the failure to accurately report who is residing in the residence. The Oshkosh/Winnebago County Housing Authority shall aggressively attempt to prevent all cases of fraud.

When a fraudulent action is discovered, the Oshkosh/Winnebago County Housing Authority shall take action. It shall do one or more of the following things depending on circumstances and what it determines appropriate:

- A. Require the resident to immediately repay the amount in question;
- B. Require the resident to enter into a satisfactory repayment agreement as set forth in a previous section of this Policy;
- C. Terminate the resident's tenancy;
- D. Refer the case for criminal prosecution; or
- E. Take such other action as the Oshkosh/Winnebago County Housing Authority deems appropriate.

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24.0 COMPLAINTS AND APPEALS

ADMINISTRATIVE GRIEVANCE PROCEDURES

24.1 COMPLAINTS AND APPEALS

The informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of the HA. This Chapter describes the policies to be used when families disagree with a HA decision. It is the policy of the HA to ensure that all families have the benefit of all protections due to them under the law. In addition to complaints from families, HAs also receive complaints from employees and the public. The following procedures define how such complaints will be processed.

A. COMPLAINTS

The HA will respond promptly to complaints. Each complaint regarding physical condition of the units may be reported by phone or in writing to the HA. Anonymous complaints are checked whenever possible. In general, the HA requires that complaints be put in writing.

Complaints from families: If a family disagrees with an action or inaction of the HA,

Complaints from families will be referred to the Executive Director or Operations Manager who will investigate the circumstances of the complaint and take appropriate action.

Complaints from staff: If a staff person reports a family is violating or has violated a lease provision or is not complying with program rules:

The ED, OM or assigned will give guidance and direction as needed or, if necessary, investigate the circumstances of the complaint and take appropriate action.

Complaints from the general public: Complaints or referrals from persons in the community in regard to the PHA or a family:

Complaints from the general public will be referred to the Executive Director, Operations Manager or assigned who will investigate the circumstances of the complaint and take appropriate action.

B. APPEALS BY APPLICANTS

Applicants who are determined ineligible, who do not meet the PHA's admission standards, or where the HA does not have an appropriate size and type of unit in its inventory will be given written notification promptly, including the reason for the determination.

Ineligible applicants will be promptly provided with a letter detailing their individual status, stating the reason for their ineligibility, and offering them an opportunity for an informal hearing.

Applicants must submit their request for an informal hearing in writing to the PHA within ten (10) business days from the date on the notification of their ineligibility.

If the applicant requests an informal hearing, the PHA will mail a written notice of the place, date, and time of the informal hearing within a reasonable timeframe of receiving the request.

Informal hearings will be conducted by an impartial hearing officer. The person who is designated as the hearing officer cannot be the person who made the determination of ineligibility or a subordinate of that person.

The applicant will be given the option of presenting oral or written objections to the decision. Both the PHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

The hearing officer will make a determination based upon the merits of the evidence presented by both sides. Within a reasonable time from the date of the hearing, the hearing officer will mail a written decision to the applicant and place a copy of the decision in the applicant's file.

The grievance procedures for Public Housing tenants do not apply to PHA determinations that affect applicants.

C. APPEALS BY TENANTS

Grievances or appeals concerning the obligations of the tenant or the PHA under the provisions of the lease shall be processed and resolved in accordance with the Grievance Procedure of the HA, which is in effect at the time such grievance or appeal arises. Further information is provided in the HA's Grievance Procedure, included in this chapter.

D. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on an INS appeal.

Assistance to a family may not be terminated or denied while the HA hearing is pending but assistance to an applicant may be delayed pending the PHA hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the HA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty (30) days or to request an informal hearing with the PHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the HA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The time period to request an appeal may be extended by the PHA for good cause.

The request for a HA hearing must be made within fourteen (14) days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in the "Grievance Procedures" section of this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the HA will:

Deny the applicant family.

Defer termination if the family is a participant and qualifies for deferral.

Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, the HA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide documentation or certification, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

24.2 ADMINISTRATIVE GRIEVANCE PROCEDURES

The purpose of the HA Grievance Procedure is to set forth the requirements, standards and criteria to assure that a HA tenant is offered an opportunity for a hearing if the tenant disputes within a reasonable time any HA action or failure to act involving the tenant's lease with the HA or HA regulations which adversely affect the individual tenant's rights, duties, welfare or status.

1. Applicability

This Grievance Procedure applies to all individual tenant grievances except in the following situations:

- a. Under Federal Law a public housing agency is not required to give an administrative grievance hearing before evicting a public housing tenant if the Secretary has first determined that law in the jurisdiction requires that the tenant be given a pre-eviction court hearing which provides the basic “elements of due process” (42 U.S.C. 1437d(k)). “Elements of due process” are defined by HUD at 24CFR 966.53 (c) of the HUD regulations.
- b. In a letter dated January 31, 1990, to Governor Tommy Thompson, then HUD Secretary Jack Kemp stated “... a public housing agency operating public housing in the State of Wisconsin may exclude from its administrative grievance procedure any grievance concerning an eviction pursuant to a small claims action. When a public housing agency evicts a tenant pursuant to a small claims action, the public housing agency is not required to afford the tenant the opportunity for an administrative hearing on the eviction, and may evict a public housing tenant pursuant to a decision in such action.”
- c. Any activity, including criminal activity, that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents or HA employees.
- d. Any drug related criminal activity on or near HA premises
- e. Any disputes between tenants not involving the HA or class grievances. (The Grievance Procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the HA’s Board of Commissioners.)
- f. Any person who is not a lessee or the remaining head of household of any tenant family residing in housing accommodations owned or leased by the HA.

2. Definitions

- a. Grievance. Any dispute which a tenant may have with respect to a Housing Authority action or failure to act in accordance with the individual tenant's lease or HA regulations which adversely affect the individual tenant's rights, duties, welfare, or status.

- b. Complainant. Any tenant whose grievance is presented to the HA or at the site/management office informally or as part of the informal hearing process.
- c. Hearing Officer/Hearing Panel. A person or persons selected in accordance with this grievance procedure to hear grievances and render a decision with respect thereto.
- d. Tenant. A lessee or the remaining head of household of any tenant family residing in housing accommodations owned or leased by the HA.
- e. Elements of Due Process. An eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required.
 - (1) Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
 - (2) Opportunity for the tenant to examine all relevant documents, records, and regulations of the HA prior to the trial for the purpose of preparing a defense;
 - (3) Right of the tenant to be represented by counsel;
 - (4) Opportunity for the tenant to refute the evidence presented by the HA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have;
 - (5) A decision on the merits of the case.

3. Pre-termination/ Pre-hearing Procedures

- a. Informal Grievance Procedures
 - (1) Any grievance shall be presented orally or in writing to the HA office or to the complainant's site office. Written grievances must be signed by the complainant. The grievance must be presented within ten (10) calendar days of the action or failure to act which is the basis for the grievance. It may be simply stated, but shall specify:

The particular grounds upon which it is based,
The action requested; and

The name, address, and telephone number of the complainant, and similar information about the complainant's representative, if any.

- (2) The purpose of the initial discussion is to discuss and to resolve the grievance without the necessity of a formal hearing.
- (3) Within a reasonable time, a summary of this discussion will be given to the complainant by a HA representative. One copy will be filed in the tenant's file.
- (4) The summary will include: names of participants, the date of the meeting, the nature of the proposed disposition, and the specific reasons for the disposition. The summary will also specify the steps by which a formal hearing can be obtained.

b. Dissatisfaction with Informal Meeting

- (1) If the complainant is dissatisfied with the proposed disposition of the grievance, they shall submit a written request for a hearing within the seven (7) calendar days of the date of the summary of the informal meeting.
- (2) The request for a hearing must be presented to the Complainant's housing site office or to the HA's offices.
- (3) The request for a hearing will be date-stamped.
- (4) The request must specify the reason for the grievance request and the relief sought. (PH Occupancy Guidebook, Section 18.4)

c. Failure to Request a Formal Hearing

If the complainant does not request a hearing within seven (7) calendar days, they waive their right to a hearing, and the HA's proposed disposition of the grievance will become final. This section in no way constitutes a waiver of the complainant's right to contest the HA's disposition in an appropriate judicial proceeding.

d. Right to a Hearing

After exhausting the informal procedures outlined above, a complainant shall be entitled to a hearing before a hearing official or panel.

4. Selection of Hearing Officer or Panel

A grievance hearing shall be conducted by an impartial person or persons (appointed by the HA) other than the person who made or approved the HA action under review, or a subordinate of such person.

5. Procedures to Obtain a Hearing

a. Informal Prerequisite

- (1) All grievances must be informally presented as a prerequisite to a formal hearing.
- (2) The hearing official or panel may waive the prerequisite informal hearing if, and only if, the complainant can show good cause why they failed to proceed informally.

b. Escrow Deposit

- (1) Before a hearing is scheduled in any grievance involving an amount of rent the PHA claims is due, the complainant shall pay to the HA all rent due and payable as of the month preceding the month in which the act or failure to act took place.
- (2) The complainant shall thereafter deposit the same amount of the monthly rent in an escrow account each month until the complaint is resolved by decision of the hearing official or panel.
- (3) The HA may waive these escrow requirements in extraordinary circumstances.
- (4) Unless so waived, failure to make the required escrow payments shall result in termination of the grievance procedure.
- (5) Failure to make such payments does not constitute a waiver of any right the complainant may have to contest the HA's disposition of the grievance in any appropriate judicial proceeding.

c. Scheduling

- (1) If the complainant complies with the procedures outlined above, a hearing shall be scheduled by the hearing official or panel promptly within twenty (20) days at a time and place reasonably convenient to the complainant and the HA.

- (2) A written notification of the date, time, place, and procedures governing the hearing shall be delivered to the complainant and the appropriate HA official.

6. Hearing Procedures

- a. The hearing shall be held before a hearing officer or a hearing panel.
- b. The complainant shall be afforded a fair hearing and be provided the basic safeguards of due process to include:
 - (1) The opportunity to examine and to copy before the hearing, at the expense of the complainant, all documents, records and regulations of the HA that are relevant to the hearing. Any document not so made available after request by the complainant may not be relied upon by the HA at the hearing.

The HA shall also have the opportunity to examine and to copy at the expense of the HA, all documents, records and statements that the family plans to submit during the hearing to refute the HA's inaction or proposed action. Any documents not so made available to the HA may not be relied upon at the hearing.
 - (2) The right to a private hearing unless otherwise requested by the complainant.
 - (3) The right to be represented by counsel or other person chosen as a representative.
 - (4) The right to present evidence and arguments in support of the complaint, to controvert evidence presented by the HA , and to confront and cross-examine all witnesses upon whose testimony or information the HA relies; and
 - (5) The right to a decision based solely and exclusively upon the facts presented at the hearing.
- c. If the hearing official or panel determines that the issue has been previously decided in another proceeding, a decision may be rendered without proceeding with the hearing.

- d. If the complainant or HA fail to appear at the scheduled hearing, the hearing official or panel may make a determination that the party has waived his/her right to a hearing.

Such a determination in no way waives the complainant's right to appropriate judicial proceedings in another forum.

- e. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the HA action or failure to act against which the complaint is directed.
- f. The hearing shall be conducted by the hearing official or panel in such a way as to be:
 - (1) Informal: Oral and documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings;
 - (2) Formal: The hearing official/panel shall require the HA, complainant, counsel, and other participants and spectators to conduct themselves in an orderly manner. The failure to comply with the directions of the hearing official/panel to maintain order will result in the exclusion from the proceedings, or a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.
- g. Transcript: The complainant or the HA may arrange, in advance, and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may request a copy of such transcript.

7. Decisions of the Hearing Official/Panel

- a. The hearing official or panel shall give the HA and the complainant a written decision, including the reasons for the decision, within a reasonable time following the hearing. The HA will place one copy in the tenant files.
- b. The decision of the hearing official or panel shall be binding on the HA which shall take all actions necessary to carry out the decision, unless the HA Commissioners determine, within thirty (30) days, and so notifies the complainant that:

- (1) The grievance does not concern the HA action or failure to act in accordance with or involving the complainant's lease or HA regulations which adversely affect the complainant's rights, duties, welfare or status;
 - (2) The decision of the hearing official or panel is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and the HA.
- c. A decision by the hearing official or panel, or HA Commissioners in favor of the HA or which denies the relief requested by the complainant in whole or part shall not constitute a waiver of, nor affect in any matter whatever, the rights of the complainant to a trial or judicial review in any proceedings which may thereafter be brought in the matter.

8. Housing Authority Eviction Actions

- a. If a tenant has requested a hearing in accordance with these duly adopted Grievance Procedures on a complaint involving a HA notice of termination of tenancy, and the hearing official or panel upholds the HA action, the HA shall not commence an eviction action until it has served a notice to vacate on the tenant.
- b. In no event shall the notice to vacate be issued prior to the decision of the hearing official or panel having been mailed or delivered to the complainant.
- c. Such notice to vacate must be in writing and specify that if the tenant fails to quit the premises within the applicable statutory period, or on the termination date as stated in the notice of termination, whichever is later, appropriate action will be brought against the complainant. The complainant may be required to pay court costs.

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GLOSSARY

50058 or 50059 Forms: The HUD form that housing authorities are required to complete and electronically submit to HUD for each assisted household in public housing or Multi-Family to record information used in the certification and re-certification process and, at the option of the housing authority, for interim reexaminations. Housing Authorities must retain at a minimum the last three years of the form 50058 or 50059, and supporting documentation, during the term of each assisted lease, and for a period of at least three years from the end of participation date. Electronic retention of form HUD 50058 or 50059 and HUD 50058-FSS and supporting documentation fulfills the record retention requirement.

1937 Housing Act: The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (24 CFR 5.100)

Adjusted Annual Income: The amount of household income, after deductions for specified allowances, on which tenant rent is based. (24 CFR 5.611)

Adult: A household member who is 18 years or older or who is the head of the household, or spouse, or co-head. An emancipated minor is also considered an adult. In the anti-drug portions of this policy, it also refers to a minor who has been convicted of a crime as an adult under any Federal, State or tribal law.

Allowances: Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly and disabled families, disability expenses, and childcare expenses for children under 13 years of age. Other allowance can be given at the discretion of the housing authority.

Annual Contributions Contract (ACC): The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program. (24 CFR 5.403)

Annual Income: All amounts, monetary or not, that:

- A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- C. Are not specifically excluded from annual income.

Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access. (1937 Housing Act; 24 CFR 5.609)

Applicant (applicant family): A person or family that has applied for admission to a program but is not yet a participant in the program. (24 CFR 5.403)

As-Paid States: States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs. Currently, the four as-paid States are New Hampshire, New York, Oregon, and Vermont.

Assets: The value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles are not counted as assets. (Also see "net family assets.")

Asset Income: Income received from assets held by family members. If assets total more than \$5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income. (See "imputed asset income" below.)

Assistance applicant: A family or individual that seeks admission to the public housing program.

Bifurcate: with respect to a public housing or Section 8 lease, it means to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Business Days: Days the housing authority is open for business.

Ceiling Rent: Maximum rent allowed for some units in public housing developments under the income method of calculating rent.

Certification: The examination of a household's income, expenses, and family composition to determine the family's eligibility for program participation and to calculate the family's share of rent.

Child: For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age. (24 CFR 5.504(b))

Childcare Expenses: Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income. (24 CFR 5.603(d))

Citizen: A citizen or national of the United States. (24 CFR 5.504(b))

Community service: The performance of voluntary work or duties that are a public benefit and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Consent Form: Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits. (24 CFR 5.214)

Covered Families: Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Covered Person: For purposes of the anti-drug provisions of this policy, a covered person is a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

Currently engaging in: With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current.

Dating Violence: Violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Decent, Safe, and Sanitary: Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

Department: The Department of Housing and Urban Development. (24 CFR 5.100)

Dependent: A member of the family (except foster children and foster adults), other than the family head or spouse, who is under 18 years of age or is a person with a disability or is a full-time student. (24 CFR 5.603(d))

Dependent Allowance: An amount, equal to \$480 multiplied by the number of dependents, that is deducted from the household's annual income in determining adjusted annual income.

Disability Assistance Expenses: Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source. (24 CFR 5.603(d))

Disability Assistance Expense Allowance: In determining adjusted annual income, the amount of disability assistance expenses deducted from annual income for families with a disabled household member.

Disabled Family: A family whose head (including co-head), spouse, or sole member is a person with a disability; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides. (24 CFR 5.403(b)) (Also see "person with disabilities.")

Disabled Person: See "person with disabilities."

Displaced Family: A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. (24 CFR 5.403(b))

Displaced Person: A person displaced by governmental action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. *[1937 Act]*

Domestic Violence: Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim share a child in common, by a person who is cohabitated with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that persons acts under the domestic or family violence laws of the jurisdiction.

Drug: means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-Related Criminal Activity: The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Economic self-sufficiency program: Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

Elderly Family: A family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides. (24 CFR 5.403)

Elderly/Disabled Family Allowance: For elderly families, an allowance of \$400 is deducted from the household's annual income in determining adjusted annual income.

Elderly Person: A person who is at least 62 years of age. (1937 Housing Act)

Extremely low-income families: Those families whose incomes do not exceed 30% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Fair Housing Act: Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.). (24 CFR 5.100)

Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

1. A single person, who may be an elderly person, displaced person, disable person, near-elderly person, or any other single person; or
2. A group of persons residing together, and such group includes, but is not limited to:
 - A. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - B. An elderly family;
 - C. A near-elderly family;
 - D. A disabled family;
 - E. A displaced family;
 - F. The remaining member of a tenant family; and
 - G. A single person who is not an elderly or displaced person, a person with disabilities, or the remaining member of a tenant family. (24 CFR 5.403)

Family Members: All members of the household other than live-in aides, foster children, and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the lease.

Family Self-Sufficiency Program (FSS Program): The program established by a housing authority to promote self-sufficiency among participating families, including the coordination of supportive services. (24 CFR 984.103(b))

Flat Rent: A rent amount the family may choose to pay in lieu of having their rent determined under the income method. The flat rent is established by the housing authority based on a HUD mandate that it be set at not less than 80% of the FMR, adjusted for tenant-paid utilities. PHAs have the flexibility to conduct reexaminations of family income once every three years instead of annually for families that choose to pay the flat rent. The flat rent amount a family pays is not locked in for the three-year period. Instead, the PHA must revise the flat rent amount from year to year based on the findings of the PHA's rent reasonableness analysis and changes to the FMR.

Full-Time Student: A person who is attending school or vocational training on a full-time basis as defined by the institution.

Gender Identity: Actual or perceived gender-related characteristics.

Guest: Means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Head of Household: The adult member of the family who is the head of the household for purposes of determining income eligibility and rent. [24 CFR 5.504(b)]

Homeless: An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; or
- b. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by

federal, state, or local government programs for low-income individuals); or

- c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

or

Any individual or family who:

- a. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; and
- b. Has no other residence; and
- c. Lacks the resources or support networks, e.g. family, friends, and faith-based or other social networks, to obtain other permanent housing.

Household Members: All members of the household including members of the family, live-in aides, foster children, and foster adults. All household members are listed on the lease, and no one other than household members are listed on the lease.

Housing Assistance Plan: A housing plan that is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR 570.

Immediate Family Member: a spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a parent); or any other person living in the household of that person and related to that person by blood or marriage.

Imputed Income: For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used as income from assets in determining annual income.

Imputed welfare income: The amount of annual income not actually received by a family, as a result of a welfare benefit reduction for welfare fraud or the failure to comply with economic self-sufficiency requirements, that is nonetheless included in the family's annual income for purposes of determining rent.

In-Kind Payments: Contributions other than cash made to the family or to a family member in exchange for services provided or for the general support of the family (e.g., groceries provided on a weekly basis, baby-sitting provided on a regular basis).

Income Method: A means of calculating a family's rent based on the greater of 10% of their monthly income, 30% of their adjusted monthly income, the welfare rent, or the minimum rent. Under this method, the family's income is evaluated at least annually.

Interim (examination): A reexamination of a family income, expenses, and household composition conducted between the regular annual re-certifications when a change in a household's circumstances warrants such a reexamination.

Law enforcement agency: The National Crime Information Center (NCIC), police departments and other law enforcement agencies that hold criminal conviction records.

Live-In Aide: A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities and who:

- A. Is determined to be essential to the care and well-being of the persons;
- B. Is not obligated for the support of the persons; and
- C. Would not be living in the unit except to provide the necessary supportive services. (24 CFR 5.403(b))

A live-in aide is not a party to the lease.

Low-Income Families: Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

Medical Expenses: Medical expenses (of all family members of an elderly or disabled family), including medical insurance premiums, that are anticipated during the period for which annual income is computed and that are not covered by insurance. (24 CFR 5.603(d)). These expenses include, but are not limited to, prescription and non-prescription drugs, costs for doctors,

dentists, therapists, medical facilities, care for a service animals, and transportation for medical purposes.

Mixed Family: A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status. (24 CFR 5.504(b))

Mixed population development: A public housing development, or portion of a development, that was reserved for elderly and disabled families at its inception (and has retained that character). If the development was not so reserved at its inception, the PHA has obtained HUD approval to give preference in tenant selection for all units in the development (or portion of development) to elderly families and disabled families. These developments were formerly known as elderly projects.

Monthly Adjusted Income: One twelfth of adjusted income. (24 CFR 5.603(d))

Monthly Income: One twelfth of annual income. (24 CFR 5.603(d))

National: A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession. (24 CFR 5.504(b))

Near-Elderly Family: A family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides. (24 CFR 5.403(b))

Net Family Assets:

- A. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- B. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.
- C. In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of

the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms. (24 CFR 5.603(d))

Non-Citizen: A person who is neither a citizen nor national of the United States. (24 CFR 5.504(b))

Occupancy Standards: The standards that a housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

Other person under the tenant's control: For the purposes of the definition of covered person it means the person, although not staying as a guest (as defined in this section) in the unit, is, or was at the time of the activity in question, on the premises (as premises is defined in this section) because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

Participant: A family or individual that is assisted by the public housing program.

Permanently absent: A person or persons not actually residing in the unit who once lived there and does not intend to return. One becomes permanently absent when one vacates the unit.

Person with Disabilities: A person who:

- A. Has a disability as defined in 42 U.S.C. 423
- B. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - 1. Is expected to be of long-continued and indefinite duration;
 - 2. Substantially impedes his or her ability to live independently; and
 - 3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions.
- C. Has a developmental disability as defined in 42 U.S.C. 6001.

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

For purposes of qualifying for low-income housing, it does not include a person whose disability is based solely on any drug or alcohol dependence.

Premises: for purposes of the anti-drug provisions of this policy it means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Previously unemployed: This includes a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Processing Entity: The person or entity that is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs, the processing entity is the responsibility entity.

Proration of Assistance: The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance. (24 CFR 5.520)

Public Housing: Housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed-finance project that are assisted by a PHA with capital or operating funds.

Public Housing Agency (PHA): Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing under the 1937 Housing Act. (24 CFR 5.100)

Recertification: The annual reexamination of a family's income, expenses, and composition to determine the family's rent.

Remaining Member of a Tenant Family: A member of the family listed on the lease who continues to live in the public housing dwelling after all other family members have left.

Responsible Entity:

- A. For the public housing program, the Section 8 tenant-based assistance program (24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the PHA administering the program under an ACC with HUD;
- B. For all other Section 8 programs, responsible entity means the Section 8 project owner.

Self-Declaration: A type of verification statement by the tenant as to the amount and source of income, expenses, or family composition. Self-declaration is acceptable verification only when third-party verification or documentation cannot be obtained.

Sexual Orientation: Homosexuality, heterosexuality, or bisexuality.

Shelter Allowance: That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

Single Person: Someone living alone or intending to live alone who does not qualify as an elderly family, a person with disabilities, a displaced person, or the remaining member of a tenant family. (Public Housing: Handbook 7465.1 REV-2, 3-5)

Specified Welfare Benefit Reduction:

- A. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.
- B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
 - 1. at the expiration of a lifetime or other time limit on the payment of welfare benefits;
 - 2. because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
 - 3. because a family member has not complied with other welfare agency requirements.

Stalking: to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA): The State agency receiving quarterly wage reports from employers in the State or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information. (24 CFR 5.214)

Temporarily absent: A person or persons not actually residing in a unit for a period of time while still maintaining control of the unit. If the absence exceeds One Hundred Eighty (180) calendar days, the Housing Authority must agree to the absence.

Temporary Assistance to Needy Families (TANF): The program that replaced the Assistance to Families with Dependent Children (AFDC) that provides financial assistance to needy families who meet program eligibility criteria. Benefits are limited to a specified time period.

Tenant: The person or family renting or occupying an assisted dwelling unit. (24 CFR 5.504(b))

Tenant Rent: The amount payable monthly by the family as rent to the housing authority. Where all utilities (except telephone) and other essential housing services are supplied by the housing authority or owner, tenant rent equals total tenant payment. Where some or all utilities (except telephone) and other essential housing services are supplied by the housing authority and the cost thereof is not included in the amount paid as rent, tenant rent equals total tenant payment less the utility allowance. (24 CFR 5.603(d))

Third-Party (verification): Written or oral confirmation of a family's income, expenses, or household composition provided by a source outside the household.

Total Tenant Payment (TTP):

A. Total tenant payment for families whose initial lease is effective on or after August 1, 1982:

1. Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act which is the higher of :
 - a. 30% of the family's monthly adjusted income;
 - b. 10% of the family's monthly income; or
 - c. If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under section 3(a)(1) shall be the amount resulting from one application of the percentage.

2. Total tenant payment for families residing in public housing does not include charges for excess utility consumption or other miscellaneous charges.
- B. Total tenant payment for families residing in housing whose initial lease was effective before August 1, 1982: Paragraphs (b) and (c) of 24 CFR 913.107, as it existed immediately before November 18, 1996), will continue to govern the total tenant payment of families, under a public housing program, whose initial lease was effective before August 1, 1982.

Utility Allowance: If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made by a housing authority of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment. (24 CFR 5.603)

Utility Reimbursement: The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (24 CFR 5.603)

VAWA: The Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162, approved August 28, 2006), as amended by the U.S. Housing Act of 1937 (42 U.S.C. 1437d and 42 U.S. 1437f).

Very Low-Income Families: Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Violent criminal activity: means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Welfare Assistance: Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

45 CFR 260.31 defines the term “assistance” to include cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

It includes such benefits even when they are:

- A. Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and
- B. Conditioned on participation in work experience or community service (or any other work activity under 45 CFR 261.30).

Except where excluded later in this definition, it also includes supportive services such as transportation and childcare provided to families who are not employed.

The term “assistance” excludes:

- A. Non-recurrent, short-term benefits that:
 - 1. Are designed to deal with a specific crisis situation or episode of need;
 - 2. Are not intended to meet recurrent or ongoing needs; and
 - 3. Will not extend beyond four months.
- B. Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
- C. Supportive services such as child care and transportation provided to families who are employed;
- D. Refundable earned income tax credits;
- E. Contributions to, and distributions from, Individual Development Accounts;
- F. Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
- G. Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

Welfare Rent: In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

Written notification: All written notifications required in this policy shall be hand delivered with a signed receipt or mailed via first class mail unless specified otherwise.

ACRONYMS

ACC	Annual Contributions Contract
CFR	Code of Federal Regulations
FSS	Family Self Sufficiency (program)
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
INS	(U.S.) Immigration and Naturalization Service
NAHA	(Cranston-Gonzalez) National Affordable Housing Act
NOFA	Notice of Funding Availability
OMB	(U.S.) Office of Management and Budget
PHA	Public Housing Agency
QHWRA	Quality Housing and Work Responsibility Act of 1998
SSA	Social Security Administration
TTP	Total Tenant Payment